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**BUTTER BILL**

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BEFORE THE

STANFORD  
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COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

SIXTY-SEVENTH CONGRESS

SECOND SESSION

JUNE 17 AND 21, 1922

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COMMITTEE ON AGRICULTURE.

HOUSE OF REPRESENTATIVES.

SIXTY-SEVENTH CONGRESS.

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## BUTTER BILL.

COMMITTEE ON AGRICULTURE,  
HOUSE OF REPRESENTATIVES,  
*Saturday, June 17, 1922.*

The committee met at 10 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

The CHAIRMAN. Gentlemen, the committee has met this morning to consider H. R. 12053. I might state that my attention was called to the fact that certain States, among them the State of Massachusetts, have passed laws adopting the Federal regulation with reference to the standards for butter. The ruling of the department some 16 years ago required 82½ per cent butter fat.

Mr. VOIGT. Was that pursuant to an act of Congress?

The CHAIRMAN. That was a regulation adopted pursuant to the pure food and drugs act.

Mr. VOIGT. Then the present rule which has the force of law is that butter must have 82½ per cent of butter fat?

The CHAIRMAN. Yes; but that rule has never been enforced. All that has been required has been 80 per cent butter fat.

Mr. McLAUGHLIN of Michigan. Do you mean they made a ruling which has the force of law which has not been enforced?

The CHAIRMAN. It is not practicable, because that is absolutely contrary to the practice in this country and also in other countries.

Mr. JONES. Mr. Chairman, are we going into hearings on this new legislation now?

The CHAIRMAN. The only thing suggested in the bill is to make the rule requiring 80 per cent fat, which is being applied now, the law.

Mr. McLAUGHLIN of Michigan. The present ruling requires 82½ per cent?

The CHAIRMAN. Yes; but it has never been enforced, and if butter were shipped into the State of Massachusetts containing less than 82½ per cent it would be seized and held up. A stay of 30 days has been secured so the Massachusetts law will not be enforced for 30 days but after the 30 days has expired a shipment of butter into that State containing less than 82½ per cent butter fat might be held up.

Mr. McLAUGHLIN of Michigan. Can we pass a law to compel them to accept butter contrary to their State law?

The CHAIRMAN. No; but the law of Massachusetts has adopted the Federal standard, which according to the rule is 82½ per cent as the standard to be observed there, while in fact in other places it is only 80 per cent.

Mr. McLAUGHLIN of Michigan. Is it a law or ruling of the State of Massachusetts?

The CHAIRMAN. My information is that it is the law. That is, the law authorizes the adoption of the Federal standards. A change in the Federal standards, as this bill proposes, would automatically change the Massachusetts standard to 80 per cent.

Mr. TINCHESTER. Let me see if I understand this matter. The Legislature of Massachusetts has passed a law adopting the Federal standard, and the Federal standard is now 82½ per cent, but they have never enforced that ruling and have always called for 80 per cent butter fat?

The CHAIRMAN. That is correct.

Mr. THOMPSON. Who has never enforced it?

The CHAIRMAN. The department.

Mr. THOMPSON. Why did they adopt a rule and then never enforce it?

The CHAIRMAN. It has never been enforced anywhere, because it is not in line with general practice.

Mr. HAYS. Does the Massachusetts law incorporate the percentage or just adopt the Federal regulation?

The CHAIRMAN. It adopts the Federal regulation by law.

Mr. HAYS. If we change the percentage to 80 per cent, will that automatically change the Massachusetts law?

The CHAIRMAN. Yes; and there are a number of other States that have adopted the same requirement?

Mr. McLAUGHLIN of Michigan. Who knows whether the Massachusetts law provides for 82½ per cent specifically or whether it provides for the standard that is fixed by the Government?

The CHAIRMAN. By law it provides for the adoption of the Federal standard. That is what is stated in this letter which I have before me. We have representatives from the Department of Agriculture who can give us the information. I would suggest that we now hear from Mr. Campbell.

Mr. TEN EYCK. Just one moment, Mr. Chairman. The passing of this law will not prevent Massachusetts from doing just what she is doing now, and that is, insisting upon the butter that comes into that State containing 82½ per cent.

The CHAIRMAN. The enactment of this bill would change the Federal standard to 80 per cent, which would automatically also change the Massachusetts standard, because it has simply adopted the regulations of the department as its standard for butter.

Mr. TEN EYCK. Is that due to the fact that their law relates to the ruling of the department?

The CHAIRMAN. They use the Federal standards. That is my understanding. There are a number of other States that have the same law, but most enforce only the 80 per cent which is the practice of the trade.

Mr. TEN EYCK. But of course, that does not prevent Massachusetts from retaining 82½ per cent as the standard for any butter that comes into that State?

The CHAIRMAN. If this bill is enacted into law it would automatically change the standard.

#### STATEMENT OF DR. W. G. CAMPBELL, ACTING CHIEF, BUREAU OF CHEMISTRY, DEPARTMENT OF AGRICULTURE.

The CHAIRMAN. Doctor Campbell, we will now hear from you.

Doctor CAMPBELL. In the enforcement of the food and drugs act it has been found necessary to express, for the information of the public, standards upon which the department proposes to operate in the enforcement of that law. The terms of the food and drugs act are general in their provisions. They define a product as adulterated, for instance, if it has some essential material, wholly or in part, abstracted. The department recognized at the very beginning, when it undertook the enforcement of this law, that in the adjustments in the industries which inevitably would follow the enactment of legislation like the food and drugs act that there would be, in a great degree, a voluntary compliance with the requirements of that law if the industry only knew what the law required. The industries were not of themselves capable of making a specific interpretation of the provisions of that law and, therefore, did not know what the requirements of the department might be. The department, therefore, promulgated definitions and standards for various classes of food products. Those definitions and standards did not have the force nor effect of law and the Department of Agriculture has never presumed for a moment that they do have. They merely serve as an indication of the administrative position taken by the department in the enforcement of the law.

Mr. McLAUGHLIN of Michigan. Suppose the department indicates, as you say, a standard and the manufacturers and dealers and so on do not comply with it; what happens?

Doctor CAMPBELL. Then we undertake to enforce the provisions of the law by the collection of that proof which is necessary and would be required to be collected whether we had a standard or not, such, for instance, as the matter of the custom of the trade, Mr. McLaughlin. If we were to find that there was a general practice on the part of the butter manufacturing industry of this country to incorporate as much as 82½ per cent of butter fat in their butter, and we could establish by the industry itself that that was its general practice, then it would be our position in court that the terms of the food and drugs act applied to a product which contained materially smaller quantities of butter fat than that percentage, on the ground that an ingredient had been abstracted in part from the product.

Mr. McLAUGHLIN of Michigan. But you established by your rules  $82\frac{1}{2}$  per cent. Doctor CAMPBELL. That was what was done originally.

Mr. McLAUGHLIN of Michigan. And you gave that out as the standard?

Doctor CAMPBELL. Yes, sir; that was the published standard.

Mr. McLAUGHLIN of Michigan. If that does not have the force of law and you are not authorized to prosecute for failure to observe it, and somebody makes butter with 80 per cent of butter fat, how is he liable, and what do you do?

Doctor CAMPBELL. I was just going to develop that in the course of my statement. I was seeking merely to give you a background for the reasons for promulgating standards and have stated that we have never considered for a moment that they had the force and effect of law. They are more nearly expressions of the criminal limitations we think shall exist in a food product before prosecution would be justified than a standard of that product itself. These expressions are not standards of excellence in any sense at all, but they are indications of the limitations which, if a manufacturer in his practices falls below or fails to observe, we believe that the general condition is such that we would be warranted under the terms of the law in instituting a prosecution.

Mr. McLAUGHLIN of Michigan. I do not quite understand your use of the word "criminal." Ordinarily, one commits a crime when he violates the letter or the spirit of the statute. There are, of course, certain common law crimes but even they have to be provided for by the statutes of the States or at least that is usually done.

Mr. TINCER. Suppose you, as a department head this morning, try to experiment on this committee by giving us the facts about this bill, and presume for a little while that we are somewhat acquainted with the background. The trouble is that when we have witnesses before us we generally get all background and very little facts. Now, just tell us about the bill and why you want it.

Doctor CAMPBELL. I am not advocating the bill, Mr. Tincher. I was seeking merely to give you such facts as to the conditions which exist at the present time as I could and then leave it entirely to the judgment of the committee to determine whether they wished to adopt the bill or not.

Mr. TEN EYCK. I think, Mr. Chairman, it would be rather interesting to know why they adopted  $82\frac{1}{2}$  per cent, first, as a standard, and then changed to 80 per cent.

Doctor CAMPBELL. If you will permit me to go on—

Mr. TINCER. Yes; go ahead.

Doctor CAMPBELL. I understand it was the practice in the manufacture of butter, which prevailed rather generally, to manufacture at  $82\frac{1}{2}$  per cent butter fat when these standards were promulgated. I know that that practice does not prevail now. The general practice is to manufacture it on the basis of 80 per cent. I know, furthermore, that the department has made the announcement that in view of the fact that that is the prevailing practice it will not interfere with the interstate shipment of butter that contains not less than 80 per cent butter fat. That leaves the situation precisely in this fashion: There has never been a repeal of the standard that was promulgated by the department calling for  $82\frac{1}{2}$  per cent butter fat. There are a great many of the States that have enacted laws that put into effect automatically the standards promulgated by the department.

Mr. HAYS. May I interrupt with a question there?

Doctor CAMPBELL. Certainly.

Mr. HAYS. You understand the purpose of this bill, I presume?

Dr. CAMPBELL. Quite well, I hope.

Mr. HAYS. Might not the same result be obtained without legislation by the promulgation of a new ruling by the department fixing the percentage at 80 per cent rather than  $82\frac{1}{2}$  per cent?

Doctor CAMPBELL. In so far as it related to those State laws that automatically put into effect the standards of the department, that could be done.

Mr. TINCER. That is, you could promulgate a new rule by the same authority that some department head promulgated the old one?

Doctor CAMPBELL. Yes; but let me explain to you that the standards committee is not under the jurisdiction of the Department of Agriculture to the extent that departmental employees are. The standards committee is composed of nine members. Three of those members are from the Department of Agriculture, three of them are from the organization known as the Association of Official Agricultural Chemists, and the three serving on that committee

designated by that association. The other three are from the organization of State and Federal Dairy and Food Commissioners, and those three are selected by that association.

When this committee meets and considers a proposition like butter or any other food substance, upon which the desirability of the promulgation of a standard is apparent, it requires all of the information it can from whatever source, takes the matter up with the industry, holds hearings, and upon the basis of that announces what it believes would be a proper standard applicable to the food and drugs act, and automatically accepted by those States that have these State laws.

Mr. TEN EYCK. Did the standards committee act upon this 80 per cent standard?

Doctor CAMPBELL. It has not. It has not modified the existing standard.

Mr. TEN EYCK. Is it behind this bill?

Doctor CAMPBELL. I do not know. I do not think the committee is. I do not think the committee knows anything, perhaps, about this measure. After the committee makes its reports, after it agrees upon what the standard shall be, that report must then be acted upon and approved by each of these two associations, and if approved by them submitted to the Secretary of Agriculture, and if approved by him, is promulgated as a standard. Now, you see from that that the standards committee is not exclusively a Department of Agriculture organization. It is one on which there are spokesmen from the association of all the State food and dairy commissioners of the country and from all the official agricultural chemists of the country.

Mr. McLAUGHLIN of Michigan. Is there a law which provides for the appointment and organization of that committee?

Doctor CAMPBELL. No, sir. The only thing that has approached that, Mr. McLaughlin, is the designation of such a committee in the appropriation act for the Department of Agriculture for 1903, I believe, which appropriated money to defray the expenses of the operations of this committee. That was before the food and drugs act passed. The committee was found to be of such a serviceable character and to serve such a definite purpose in connection with the food and drugs act that its expenses since then have been defrayed from that appropriation for the enforcement of that act.

Mr. CLARKE. This committee, as I understand it, up to this time has not promulgated any standard, acting as a committee?

Doctor CAMPBELL. Originally, it adopted and promulgated a standard of 82½ per cent. I may say that in the early days this organization was not quite what I have described. I have described to you the organization as it is to-day.

Mr. VOIGT. When this committee promulgated this standard, it became the action of the Secretary of Agriculture, did it not?

Doctor CAMPBELL. Yes; the Secretary of Agriculture had to approve that standard also before it became a department standard.

Mr. VOIGT. In other words, it became a regulation made by the Secretary of Agriculture under the pure food and drugs act?

Doctor CAMPBELL. It became not quite a regulation but an expression or an information of the administrative course and position of the Department of Agriculture in the enforcement of the food and drugs act as it applied to butter.

Mr. VOIGT. The bill provides in section 2:

"That the word 'butter' as defined in section 1 of the act of August 2, 1886 (24 Stat. L., 209), and in section 4 of the act of May 9, 1902 (32 Stat. L., 193), shall be understood to mean butter as defined in section 1 of this act."

Now, can you give us the definition that is contained in this law of 1886?

Doctor CAMPBELL. I am afraid I can not do that. They relate to internal revenue matters.

The CHAIRMAN. I think I should read that into the record right now.

Mr. VOIGT. I would like to have that definition read into the record so we will know what change is proposed.

(The Clerk read as follows:)

"[Act of August 2, 1886, 24 Stat. L., p. 209.]

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of this act the word 'butter' shall be understood to mean the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common malt, and with or without additional coloring matter."*

" [Act of May 9, 1902, 32 Stat. L. p. 193.]

" SEC. 4. That for the purposes of this act 'butter' is hereby defined to mean an article of food as defined in 'An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleo-margarine,' approved August second, eighteen hundred and eighty-six; that 'adulterated butter' is hereby defined to mean a grade of butter produced by mixing, reworking, rechurning in milk or cream, refining, or in any way producing a uniform, purified, or improved product from different lots or parcels or melted or unmelted butter or butter fat, in which any acid, alkali, chemical, or any substance whatever is introduced or used for the purpose or with the effect of deodorizing or removing therefrom rancidity, or any butter or butter fat with which there is mixed any substance foreign to butter as herein defined, with intent or effect of cheapening in cost the product or any butter in the manufacture or manipulation of which any process or material is used with intent or effect of causing the absorption of abnormal quantities of water, milk, or cream; that 'process butter' or 'renovated butter' is hereby defined to mean butter which has been subjected to any process by which it is melted, clarified, or refined and made to resemble genuine butter, always excepting 'adulterated butter' as defined by this act."

Mr. VOIGT. Then the law of 1886 is the same as the bill before us down to the word "and" in the sixth line?

The CHAIRMAN. Yes.

Mr. McLAUGHLIN of Michigan. This bill adds the following words: "And containing not less than 80 per cent of milk fat and not more than 16 per cent of water."

And right there—it may be my fault—but I do not remember of hearing that expression, "milk fat," before. I have always heard it called butter fat.

Doctor CAMPBELL. It has ordinarily been called butter fat.

Mr. VOIGT. Section 3 of the bill before us provides: "That for the purposes of the food and drug act of June 30, 1906 (Thirty-fourth Statutes at Large, page 768), butter is the article of food defined in section 1 of this act."

Now, does the pure food and drugs act contain any definition of butter in it?

Doctor CAMPBELL. No; it does not.

Mr. VOIGT. It refers to butter as one of the food products?

Doctor CAMPBELL. It has no definition of any food product.

Mr. VOIGT. But the description of food product in the pure food and drugs act does cover butter?

Doctor CAMPBELL. Oh, yes; it applies to butter. All the provisions of the food and drugs act apply to butter.

Mr. VOIGT. Then the only way you could prosecute a man under the food and drugs act for putting butter into interstate commerce which is below the usual content of butter fat would be to accuse him of shipping an article of food from which one of the ingredients had been abstracted?

Doctor CAMPBELL. That is right; and if there had been abstracted from something one of its ingredients, in whole or in part, there is a presumption that there is a standard for that product before it was sophisticated, and what is that standard? That is the condition we are up against in the enforcement of the food and drugs act.

Mr. TEN EYCK. They could prosecute them also for adding as well as for subtracting?

Doctor CAMPBELL. Yes.

Mr. VOIGT. My understanding is they do not add anything to butter, but what they do is very frequently leave too much moisture in the butter. They do not churn it long enough so as to take out the moisture, and consequently there is more water in the butter than there should be.

Mr. TEN EYCK. But they could add other things to butter. They add coloring matter, and some States protect the people against the use of more than a certain amount of coloring matter, do they not?

Doctor CAMPBELL. Oh, yes.

Mr. VOIGT. Let me ask you this question: It would be a violation of the pure food and drugs act to add anything to butter outside of salt and coloring matter, would it not?

Doctor CAMPBELL. That is right. We would take that position.

Mr. VOIGT. That point is taken care of already by the pure food and drugs act?

Doctor CAMPBELL. Yes; by the general provisions of that law.

Mr. VOIGT. If I understand your statement before the committee correctly, the point you are up against is that the pure food and drugs act does prevent people from abstracting some of the important ingredients that go to make up butter, and the pure food and drugs act also prevents anyone from adding anything to butter except salt and coloring matter; but the trouble you are up against now is that manufacturers may permit too much of the water to remain in the butter after it is made, and consequently have too much water and not enough butter fat in the butter?

Doctor CAMPBELL. That is practically the situation.

Mr. VOIGT. And what you want now is a definition or a limitation of the smallest quantity of butter fat which may be contained in the butter?

Doctor CAMPBELL. Let me say again that the department is not urging this legislation. We recognize the difficulties under which we operate. Whether the committee wishes to establish a legal standard or not is up to the committee to determine; but if there is a legal standard, it is going to make the operations of the Government in the enforcement of the Federal law, as well as the operations of the State officials in the enforcement of State laws, very much simpler than is the case now. If we undertake to develop a prosecution for the adulteration of butter on the ground that it contains, for instance, 78 per cent instead of 82½ per cent butter fat, we are going to be required to introduce evidence that will seek to establish what the trade custom is with respect to the butter-fat content of butter, and that a product that falls below that is not entitled to the name butter and has been adulterated within the meaning of the general provisions of the food and drugs act.

That involves expense and litigation and some doubt about your ability always to maintain your position. If 82½ per cent butter fat in butter were the practice when this standard was first promulgated, and if as the custom of trade there was a gradual recession from that until the practice became general at 80 per cent, the question can be pertinently asked whether our experience of the past in that respect has been worth anything in the matter of observation and whether we might not be confronted, if the standard were changed to 80 per cent, with a comparable situation in a few years from now, because the trade practice might bring it down to 78 per cent. That would not be the case if there were a legislation standard. I can say to you frankly that the Secretary sees that condition and sees the condition we are in right now, and believes the most satisfactory, and certainly the only final, solution of the matter would be the enactment of some bill that made a legislative definition for butter.

Mr. TINCER. Is there not also another complication? Of course, I appreciate that complication; but Massachusetts, it has been said, has passed a law which has the effect of adopting 82½ per cent as the standard, which is found impracticable. Now, when their law goes into effect, that would necessitate their officers in the enforcement of that law stopping all the butter that did not contain 82½ per cent, when the department has found by experience that that is impracticable. If we change the standard to 80 per cent or pass a law making it 80 per cent, that would relieve the Massachusetts authorities. I do not suppose that they had 82½ per cent specially in mind when they passed that law but simply wanted to adopt the standard which had been adopted by the Government.

Doctor CAMPBELL. I think your presumption on that is correct, from the correspondence we have had with the Massachusetts officials. As was stated by the chairman a moment ago, there are a number of States that have laws that automatically put into effect as the legal standard in the State the standards announced and published by the Department of Agriculture.

Mr. McLAUGHLIN of Michigan. Do those laws name 82½ per cent or just say that the standard in the State shall be the standard adopted by the Department of Agriculture?

Doctor CAMPBELL. The latter is correct.

Mr. McLAUGHLIN of Michigan. That is the way they write the law?

Doctor CAMPBELL. I understand so. The laws vary in their wording in some respects but they have that effect.

Mr. McLAUGHLIN of Michigan. And those laws do not name the percentage in figures; is that correct?

Doctor CAMPBELL. Those particular food laws do not, but there are some States which have by legislative enactment indicated what the butter fat content of butter shall be. Some few States have done that.

**Mr. CLARKE.** I would like to have it stated in the record what those States are.

Doctor CAMPBELL. I have a list of them here.

Mr. TEN EYCK. I think it would be interesting to the committee if a brief statement were made why 80 per cent of butter fat is required in butter. Is one reason due to the fact that if you have too much water and curd, the butter does not keep as well or carry as well from the producer to the consumer?

Doctor CAMPBELL. That is going into a phase of the butter industry which I am not prepared to speak on. Doctor Larson, from the Department of Agriculture, who has studied that matter, is here and can answer that question.

Mr. TEN EYCK. Is he here now?

Doctor CAMPBELL. Yes, sir.

Mr. TEN EYCK. The point is, that if we are going to establish the percentage of butter fat in butter, we ought to know from some authentic source just what we are doing.

Mr. HAYS. And why?

Mr. TEN EYCK. Yes; and not simply say 80 per cent offhand without knowing anything about it.

Mr. TINCER. I think the experience of the Department of Agriculture over this long term of years would be some evidence along that line.

Mr. TEN EYCK. That is why I asked the question. I do not know whether the committee is informed along this line or not.

Mr. TINCER. I think the committee would like to have a list of the States that have passed these laws.

The CHAIRMAN. In that connection, let me read from this letter from Mr. McKay and see if we have correctly the position of the department:

AMERICAN ASSOCIATION CREAMERY BUTTER MANUFACTURERS,  
Chicago, June 12, 1922.

Congressman C. N. HAUGEN,  
*Chairman of Agricultural Committee, House of Representatives,*  
Washington, D. C.

MY DEAR CONGRESSMAN HAUGEN: I am writing you concerning the fat standard for butter. As you know, there is a ruling in the Department of Agriculture requiring 82½ per cent fat in butter, which is out of line with standards in all other countries and is against the standards recommended by all our dairy authorities. This ruling or standard has been on the books for about 16 years, and never has been enforced, and, of course, never will be enforced.

The bad feature of the whole proposition is some States have adopted the Federal regulations and enacted the same into a law. We have a case of this kind right now in the State of Massachusetts. They passed a law adopting Federal regulations as the standards to be observed in the State of Massachusetts. \* \* \* Doctor Lythgoe is going on the theory that if you have a bad law, the quickest way to get rid of it is to try and enforce it. This is all right in theory, but it does not work very well with the creamery men who make butter and ship it to the East and it is seized and held up in the State of Massachusetts and they are summoned into court, and they have to engage counsel and pay penalties.

The last time I was in Washington and called at your place, I took this matter up with Secretary Wallace and Mr. Campbell, of the Bureau of Chemistry. Mr. Campbell is very much opposed to their ruling, and notified Secretary Wallace there was no use of them having a ruling that was impracticable and could not be enforced. Secretary Wallace was opposed to the ruling, he told me, but he didn't know if he had the authority to revoke it or not, as it came from the standards committee originally. The standards committee, as you know, is composed of three men from the Bureau of Chemistry, three from the Chemists' Association of Official Agricultural Chemists, and three from the Association of American Dairy, Food, and Drug Officials. These men are all chemists. The following is a list of their names:

Association of American Dairy Food and Drug Officials: Dr. W. W. Randall, chief, bureau of chemistry, State department of health, Baltimore, Md.; Dr. L. E. Sayre, dean, school of pharmacy, University of Kansas, Lawrence, Kans.; Mr. R. E. Rose, State chemist of Florida, Tallahassee, Fla.

Association of Official Agricultural Chemists: Dr. Julius Hortvet, chief chemist, State dairy and food commission, St. Paul, Minn.; Mr. C. D. Howard, chemist, State board of health, Concord, N. H.; Mr. E. M. Bailey, State chemist, New Haven, Conn.

Bureau of Chemistry: Dr. W. W. Skinner, assistant chief, bureau of chemistry, Washington, D. C.; Dr. F. C. Blanck, chemist in charge, food control laboratory, bureau of chemistry, Washington, D. C.; Mr. R. E. Doolittle, chief, central food inspection district, Chicago, Ill.

I think there was to be another man appointed from California.

If Secretary Wallace could revoke this ruling, the Massachusetts law would become correct automatically, as their law is based on the Federal standards.

I had a letter from Secretary Wallace this morning. I will quote a portion of his letter:

"I have referred this matter to the joint committee on definitions and standards for consideration at the June meeting. As you know, the standards originated in that committee, which is composed of three members of the department, three members of the Association of Official Agricultural Chemists, and three members of the Association of American Dairy, Food, and Drug Officials. Any standard proposed by the committee must first receive the approval of both of these associations before it is submitted to this department for approval. This procedure requires considerable time, and it would be impossible to effect a change in the existing standard in so short a time as 30 days. The earliest consideration the associations can give to a standard now proposed by the committee will be at their next meetings, which are scheduled for October.

"With regard to the action that the committee and the organizations it represents may take it is my opinion that it would be best to have a legislative standard for fat in butter enacted by Congress. This would clarify the situation finally. I believe that if the industry concurs in this view, favorable consideration by Congress could readily be obtained."

I got a stay from the officials in Boston for 30 days. This is what Secretary Wallace refers to in his letter. Upon receipt of Secretary Wallace's letter today, I wrote to the health officials in Boston to see if I could get them to not prosecute nor seize butter until the October meeting of the joint committee on definitions and standards.

It occurred to me that it might be a good thing for the Department of Agriculture to prepare a bill. I know you are quite busy. I think, however, it would probably be a good thing for you and Secretary Wallace to talk over the situation, because the situation in the State of Massachusetts is quite dangerous. Practically all the salted butter shipped into that State will be below 82½ per cent fat. The unsalted butter will be all right. There is also a good deal of butter that is shipped East into other States that may find its way into the State of Massachusetts.

I will be pleased to hear from you at an early date. I am anxious that if any action is to be taken that it be taken as soon as possible.

Very sincerely yours,

G. L. MCKAY, *Secretary.*

The CHAIRMAN. Have you any knowledge of that letter? I understand the Secretary is out of the city to-day.

Doctor CAMPBELL. Yes; I have, Mr. Haugen. That is substantially correct as quoted. I may say that Professor McKay's statement is substantially a statement of the remarks which I made to him. I said to him and I say to you now that our concern with this matter in the Bureau of Chemistry, in the enforcement of the food and drugs act, is to have settled some definite basis or standard for butter which will permit uniform action. At the present time the condition is chaotic. We have a standard that exists for publication purposes and because of the character of the laws of various States, automatically making those standards the standards in those States, that puts the State in the position of attempting to enforce, for instance, an 82½ butter fat standard while the Department of Agriculture can not enforce an 82½ per cent butter fat standard under the conditions of the existing custom in the trade, which is almost universally on the basis of 80 per cent.

The CHAIRMAN. The language of this bill drafted by the department makes no change in the definition of butter except it adds the words, "And containing not less than 80 per centum of milk fat and not more than 16 per centum of water?"

Doctor CAMPBELL. That is right.

The CHAIRMAN. It is word for word the same as the present act except that it adds those words.

MR. TINCER. May we now have a list of the States that have passed legislation on this matter? Suppose you just read that into the record.

Doctor CAMPBELL. The State of Alabama has a standard of 82½ per cent butter fat with 16 per cent moisture. That is a regulation. The commissioner is authorized by law to adopt standards of the United States Department of Agriculture. That was authorized in 1917. The State of Arizona has 80 per cent and less than 16 per cent moisture; State statute, 1919. Arkansas has 82½ per cent and 16 per cent moisture; regulations adopting the Department of Agriculture standards. California has 82½ per cent and 16 per cent moisture by the very same means.

MR. TINCER. That is, by regulation?

Doctor CAMPBELL. Yes. Colorado has 80 per cent and 16 per cent moisture by statutes, 1921. Connecticut has 82½ per cent; commissioner authorized by law to adopt standards in 1921. Delaware has no law or regulation. Florida 82½ per cent by adopting department standards.

Mr. McLAUGHLIN of Michigan. Does it name 82½ per cent in the law?

Doctor CAMPBELL. No; their law says merely that the standard effective in the State under the State laws shall be the standard adopted by the Department of Agriculture.

Mr. McLAUGHLIN of Michigan. But the other States you named put the figures in the law?

Doctor CAMPBELL. That is right where they have statutes.

MR. TINCER. He has not named one yet that has 82½ per cent. So far they have only provided for 80 per cent.

Doctor CAMPBELL. Well, there are some few, Mr. Tincher. Georgia has 82½ per cent; that is also by automatic law. I will say, "by regulation," to indicate that condition, if I may. Idaho has 82½ per cent; that is by statute, 1921; Illinois has 82½ per cent; that is by regulation. Indiana has 82½ per cent and 16 per cent for moisture, regulation. Iowa has 80 per cent; by statute, 1922. Kansas has 80 per cent and less than 16 per cent moisture; statute, 1922. Kentucky has 82½ per cent, regulation. Louisiana has 82½ per cent, regulation. Maine has no legal standard or published regulation. Maryland has 82½ per cent, by regulation. Massachusetts—we have on this tabulated list here no standard, but the very recent action that has taken place has indicated there has been a standard adopted by regulation in that State since this information was available to us for the preparation of this statement, because the activity in that State has agitated the question, and there, as I know, it is 82½ per cent by regulation. Michigan has 80 per cent, statutes of 1922; Minnesota has 80 per cent and 16 per cent moisture; statutes of 1922. Mississippi has 82½ per cent, by regulation.

Missouri has 82½ per cent by statute. Montana has 82½ per cent and 16 per cent moisture; also by statute. Nebraska has 82½ per cent, regulation. Nevada has 82½ per cent, regulation. New Hampshire has 80 per cent and 16 per cent moisture, statutes of 1922. New Jersey has no standard that we are aware of. New Mexico has no standard. New York, we have here only the comment that they have no legal standard or published regulation on their requirements for butter. North Carolina has 82½ per cent by regulation. North Dakota, we have the comment on that; no legal standard and no published regulation. Ohio, no legal standard and no published regulation. Oklahoma has 82½ per cent by regulation. Oregon has 80 per cent by regulation. That is the regulation of the State dairy and food commissioner of 1922 and is his own independent promulgation. Pennsylvania, no legal standard or published regulation. Rhode Island, no legal standard or published regulation. South Carolina, no legal standard or published regulation. South Dakota, 80 per cent, statutes of 1922. Tennessee, no standard. Texas, 82½ per cent, regulation. Utah, 82½ per cent, regulation. Vermont, 82½ per cent, regulation. Virginia, 82½ per cent, regulation. Washington, 80 per cent, Dairy Code of 1919. West Virginia, no legal standard or published regulation. Wisconsin, 82½ per cent, with a permitted tolerance of 2.5 per cent, statutes of 1922, making an 80 per cent product legal. Wyoming has 80 per cent, 16 per cent moisture, statutes of 1922.

MR. TINCER. Now, there are only three States you have named that have a percentage of 82½ per cent by statute and there are 14 States that have 80 per cent by statute, and the rest of the States have 82½ per cent by regulation.

Mr. ASWELL. I notice that most of these statutes were enacted in 1922. Why were they so late in enacting a law on the subject; what was the situation before that?

Doctor CAMPBELL. I am not exactly sure what was the situation in those States before that. A great many of the States when they passed their food laws seeking to establish uniformity in food-law legislation and making the terms of the Federal law applicable to the State conditions adopted the standards of the Federal Government by saying that automatically as they were promulgated by the Government they would become of force and effect in that State. The presumption, I would say, is that not being satisfied with the standard of 82½ per cent, where that became effective by regulation, the legislature itself would pass a statute establishing it at 80 per cent. Of course, in the three cases that provide for 82½ per cent, that would not be the case.

Mr. ASWELL. There was practically no legislation until this year?

Doctor CAMPBELL. Food-law legislation is all recent and perhaps they were operating under the automatic phase of the State law.

Mr. ASWELL. Were those States trying to meet the requirements of the Federal Government, you think?

Doctor CAMPBELL. Yes; there is a tendency toward uniformity in legislation and a tendency toward uniformity in the operations of the States and Federal Government in the enforcement of such laws.

Mr. McLAUGHLIN of Michigan. This bill, as it is drawn, is little more than a suggestion or expression of opinion. There is not anything in here to the effect that a violation or failure to comply with it is unlawful. It may be that its relation to the food and drugs act would make something unlawful if it were not in accordance with the regulations which are authorized to be adopted.

The CHAIRMAN. This bill does not amend the law except the particular section with reference to the definition of butter. It does not amend the law in any other respect.

Mr. HAYS. Does not the pure food and drugs act provide a penalty so that a violation of this particular section would be covered?

Mr. TINCER. Certainly.

The CHAIRMAN. There is a penalty provided in the oleomargarine act.

Are there any other questions?

Mr. TINCER. Doctor Campbell, I think you have made quite clear to the committee just what the situation is.

Mr. VOIGT. Doctor Campbell, suppose the bill now before us should become a law and a man should ship butter containing less than 80 per cent butter fat, under what law would you then prosecute him?

Doctor CAMPBELL. If the action were by us, and that is the only action I know of that would be taken, it would be under the terms of the food and drugs act.

#### STATEMENT OF DR. C. W. LARSON, CHIEF OF THE DAIRY DIVISION, BUREAU OF ANIMAL INDUSTRY, DEPARTMENT OF AGRICULTURE.

The CHAIRMAN. Doctor Larson, there have been some questions asked about the percentage of moisture in butter. Can you tell us about that?

Mr. TEN EYCK. Doctor Larson, what I would like to have you state for the benefit of the committee is why 80 per cent butter fat is the proper amount. I think we ought to be very careful that we do not ask for a higher percentage of butter fat than is proper to embody in a law or have a lower amount, and I think the committee ought to be well informed on that point before we adopt a definite percentage.

Doctor LARSON. In the manufacture of food products, it seems to me, there are two factors that operate in determining the limits; one is the consumer and the other the practicability of producing that product. From the standpoint of the consumer, the more butter fat there is in the product, the better it is. From the standpoint of the manufacturer, the more butter fat there is in it, so long as it makes a more salable product, it is to his advantage; but from the standpoint of the manufacturer, it must be so defined that the product can be made generally without violation, and it is my understanding that the 82½ per cent provision has not been enforced in many States because there would be so many violations in the regular processes of making butter.

Mr. ASWELL. I understood Mr. Ten Eyck to ask you why 80 per cent is necessary.

Doctor LARSON. Yes, sir; and, Mr. Aswell, I am trying to give the limit or the reasons why we should have 80 per cent as the standard.

**Mr. HAYS.** Why we should not have 80 per cent?

**Doctor LARSON.** No; why we should have 80 per cent.

**Mr. HAYS.** If you will pardon a question there, the record shows that Missouri has a law fixing 82½ per cent as the standard. In Missouri we can manufacture butter of not less than 82½ per cent and get by under the State law; but, perhaps, we ship a good deal of our butter to another market, and what I am interested in is knowing whether this law would discriminate against Missouri and the other two States that have that standard. Our people would be punishable in Missouri if they manufactured butter under 82½ per cent.

**Doctor LARSON.** That is right.

**Mr. HAYS.** And yet they could not compete with other States, perhaps, that would be permitted under the Federal law to manufacture butter at 80 per cent. Would not that operate as a discrimination against Missouri in shipping butter out of the State?

**Doctor LARSON.** In a way, it would; that is to say, it would be privileged to have more butter fat in their butter than they would in the other States.

**Mr. HAYS.** In other words, the butter we ship to the Chicago market, which under the Federal statute would be allowable at 80 per cent, we could not ship, because we would not be permitted to manufacture it in our own State.

**Doctor LARSON.** That is right if the requirement of 82½ per cent were enforced.

**Mr. CLARKE.** You have that law so as to be sure your butter is the best?

**Mr. TINCER.** It outsells any other butter on the market now.

**Mr. HAYS.** Yes; everybody knows that Missouri butter is the best.

**Mr. ASWELL.** Would not butter manufacturers in States outside of Missouri ship into Missouri and compete with you and undersell you?

**Mr. HAYS.** That is exactly what I am talking about—not shipping outside of the State but shipping into the State.

**Mr. TINCER.** What Mr. Ten Eyck wanted to know was why it was necessary to have 80 per cent as the standard.

**Mr. TEN EYCK.** What is the reason they have settled on 80 per cent? It may be too high or it may be too low, and I would like to know the real reason, and to make the record correct as regards the different States we have just checked it over and we have found that 80 per cent butter fat is required by statute in 12 States and 82½ per cent is required by State statute and regulation in 6 States, and there are regulations relating to departmental ruling providing for 82½ per cent in 17 States.

**Doctor LARSON.** Referring again to your question, Mr. Ten Eyck, as to why the limit is fixed at 80 per cent, I have already said that the food value is a consideration, the quality of the product, and the other is the practical proposition of making it in the factories. If by the regular processes of making butter, butter is produced that contains less than 82½ per cent, then it would not be right to have a law fixing butter that contained 82½ per cent as criminal butter, so the manufacturer is considered in the law; in other words, 82½ per cent is often violated in the regular processes of making butter at the present time.

**Mr. McLAUGHLIN.** of Michigan I have been told by those who fixed this 16 per cent of moisture and by those who have charge of enforcing the law that butter when honestly made does not contain more than 13 or 14 per cent of moisture, but that it would be a pretty difficult proposition to prosecute anyone who did put a little more than 13 or 14 per cent and, therefore, it was put at 16 per cent in order to be safe, but that any more than 13 or 14 per cent is added deliberately for the purpose of increasing the weight.

**Mr. CLARKE.** I would not say added, but left in, in the process of manufacture.

**Mr. McLAUGHLIN** of Michigan. Yes; but that 13 or 14 per cent of moisture is all that ought to be left in in making butter honestly, but to be safe they fixed the limit at 16 per cent and prosecute all who come up to that or exceed it.

**Doctor LARSON.** I do not believe that that is the fact.

**Mr. McLAUGHLIN** of Michigan. I may be wrong about it, but I have been told that.

**Doctor LARSON.** I do believe it is possible to incorporate abnormal amounts of water. It is possible to do either way, leave a large amount in or introduce the water.

**Mr. TEN EYCK.** Can you not introduce milk into butter after the butter has been made?

**Doctor LARSON.** Yes, but that would be equivalent to adding water.

**Mr. McLAUGHLIN** of Michigan. Is it not true that it is an improper method or inexcusably careless if more than 13 or 14 per cent of water remains in

butter and that it is not necessary or proper to have more than 13 or 14 per cent of moisture?

Doctor LARSON. It is possible, if you know how and have proper equipment, to make butter that will always contain less than 16 per cent water, but in the ordinary processes of making it, men do manufacture butter, unintentionally containing over 16 per cent. I can give you an actual case that happened in the State of Pennsylvania where I was located for a number of years. A certain manufacturer called me up on the long distance telephone and told me that a quantity of his butter had been seized in Philadelphia as being adulterated. I knew positively that the man had never known anything about the incorporation of water into butter. He had never studied it, and when I went to his factory I found he had a great quantity containing as high as 17 or 18 per cent of water. He said he had not, as far as he knew, changed his process, but he must have changed his process or the product from which he made his butter had been changed.

Mr. McLAUGHLIN of Michigan. He had an improper process. I knew of a case where a disgruntled employee deliberately permitted an excess of moisture to appear in the butter or put something in it, and that was the way the proprietor escaped, by showing that it was done without his knowledge and consent and by some one who had it in for him.

Doctor LARSON. That can be done; yes.

Mr. McLAUGHLIN of Michigan. I do not remember now whom I talked with in regard to the absolute needlessness of more than 13 or 14 per cent of moisture, but I know it was somebody who pretended to know, and I think he did know. Pardon me for differing from you, because I do not want to put his opinion against yours.

Doctor LARSON. I do not think we do differ, except in the statement where you say that if a man ever makes butter with 16 or 17 per cent moisture, or more than 13 or 14 per cent, as you say, he has done it intentionally.

Mr. McLAUGHLIN of Michigan. Has either done it intentionally or else is pursuing a process that is defective and absolutely inexcusable.

Doctor LARSON. That I am not discussing.

Mr. TEN EYCK. It seems to me there is one other question involved there. I rather agree with your statement as regards the butter manufacturer, but we must consider the thousands and thousands of farms where butter is made on the farm by the farmer's wife and where he may not be in a position to know just how much water is in that butter, and that is the reason why I am so particular to-day to know why they are making it 80 per cent, because I do not want thousands of farmers to be arrested and prosecuted under the pure-food law, when they unintentionally or accidentally leave a little more water in their butter than is necessary, when that butter goes into interstate commerce.

Mr. ASWELL. How would they know exactly how much water was in it?

Mr. TEN EYCK. They would not know, and that is why I want to be sure about it before we as a legislative body legislate against the big individual producing interests in this country.

Mr. TINCER. The regulation now being 82½ per cent, I do not suppose reducing it to 80 per cent would work any great hardship on the producer. As I understand, it is practically impossible to manufacture butter in any legitimate manner and have more than 16 per cent of moisture in it.

Doctor LARSON. It seldom contains more than 16 per cent, in its usual processes.

Mr. TINCER. And in all the States that have seen fit to legislate on the subject, none of them has legislated for less than 80 per cent and as many as three of them, and only three by statute, have legislated for 82½ per cent.

Doctor LARSON. That is right.

Mr. TEN EYCK. The difference, Mr. Tincher, is that those States are close to the individuals and they can be somewhat lenient, but when you put a Federal law on the statute books and some poor individual is caught out in the State of Kansas for unintentionally doing something unlawful and brought before the Federal court and prosecuted, his farm is gone before he can prove himself innocent.

Mr. TINCER. Is it your theory we ought to reduce it below 80 per cent?

Mr. TEN EYCK. I have not any theory about it. This is a new thing that has come up here very quickly, and I say before we put upon the statute books a law demanding 80 per cent, this committee ought to know more about what they are doing.

Mr. TINCER. This committee never acts without knowing what it is doing.

Mr. TEN EYCK. Well, I simply say that is my idea. I am merely expressing my ideas now, so we will not act too hurriedly, and that is why I asked the gentleman the question I did.

Mr. CLARKE. Coming from a big dairy district, I am free to confess that I am unfamiliar with this proposition, and I think it would be extremely hazardous for us to hastily take any action now. I do think we ought to defer action for a little time until we can have more complete information from those who are actually manufacturing the butter.

The CHAIRMAN. I have certainly no desire to urge unduly speedy action or anything of that kind; I thought it my duty to call this matter to the attention of the committee.

Mr. CLARKE. I think it was very proper for you to do that, and I think then we should take the time to consider the matter thoroughly.

Mr. TINCER. Is there anyone here opposing the legislation? Let us get a little of that side of the matter so we can be studying about that.

Mr. TEN EYCK. And I suppose it is the chairman's intention to see that the farming industry of the country is heard on this bill before anything is done?

The CHAIRMAN. Oh, yes; we will hear anybody who appears interested in the legislation; but the question now is whether the committee will consider the matter.

#### **STATEMENT OF MR. J. S. ABBOTT, SECRETARY OF THE INSTITUTE OF OLEOMARGARINE MANUFACTURERS.**

THE CHAIRMAN. Are you going to talk on oleomargarine?

MR. ABBOTT. No, sir.

THE CHAIRMAN. That has nothing to do with this bill. If you inject oleomargarine into this matter we might as well quit right now, so far as I am concerned.

MR. ABBOTT. It appears that oleomargarine has had quite a lot to do with butter in the legislation.

THE CHAIRMAN. Oleomargarine is not butter, and if you are going to talk about oleomargarine, that is something that has nothing to do with this bill because nobody contends that oleomargarine is butter.

MR. ABBOTT. Mr. Chairman—

MR. ASWELL (interposing). Just a minute, Mr. Chairman. Is not this an amendment to the oleomargarine act?

THE CHAIRMAN. It is an amendment simply to the section that deals with butter.

MR. ASWELL. But it does deal with the oleomargarine act?

THE CHAIRMAN. I am not bringing that in.

MR. ASWELL. I am not sure what you have in mind, but I think the committee has a right to discuss it.

THE CHAIRMAN. The committee can discuss anything it wants, so far as that goes.

MR. ASWELL. I think the gentleman ought to be heard.

THE CHAIRMAN. But we should not discuss a matter now that is not germane to this bill.

MR. ASWELL. I would like to know when we got so strict about what we should discuss here.

MR. TINCER. Are you going to discuss something that is germane to this bill?

MR. ABBOTT. Yes, sir. If you please, Mr. Chairman, this is an amendment to the oleomargarine law. If the oleomargarine law is amended—

THE CHAIRMAN (interposing). It is an amendment to the section that deals with butter?

MR. ABBOTT. Yes, sir; but it is my position here, without having had time to confer with the people who employ me, that they should have an opportunity to be heard. Their product comes in competition with the product you are dealing with, and in that sense or for that reason we think we ought to be heard on this bill. We respectfully submit that we can not be heard to-day. I did not know about this until about 10 minutes after 10 o'clock.

MR. TINCER. Let us see the theory on which you think you are interested. Oleomargarine coming in competition with butter, the higher we keep the standard of butter the better it is, I suppose, for oleomargarine; that is, if we put the standard up to 86 per cent butter fat, you would have less competition from butter than you have now.

**Mr. ABBOTT.** I would not put it exactly in that way, Mr. Congressman. It is of interest to us that the consumer has all the protection he is entitled to when he goes to buy butter and when he goes to buy oleomargarine. Now, whether or not this bill gives the consumer the protection he is entitled to and whether or not it gives the producer the protection he is entitled to, can not be answered here impromptu or offhand by the butter crowd or by us. A good many years ago your honorable body enacted a statutory definition of butter and a standard. The standard enacted was 83 per cent fat. A little later, in 1906, the Standards Committee, operating under the appointment of the United States Secretary of Agriculture, adopted a standard of 82½ per cent butter fat. Your first statutory standard was 83 per cent fat, your next standard under authority of the Secretary was 82½ per cent fat.

That went along for a good many years and the States took action on it one way or the other, as you have just heard, and I think I compiled most of those figures when I was in the Department of Agriculture myself. They worked under that as well as they could for a long time, and the standards committee took the subject up again to make a reinvestigation, and did make a new investigation to determine what fat content butter should have in the light of modern methods of butter making. After two or three years of consideration of that subject by that standards committee, of which I was a member at that time, being also the secretary of the committee, there were numerous hearings held all over the country and the butter people were given an opportunity to be heard on what they thought the standard should be. That committee as recently as 1919 or the latter part of 1918 reaffirmed the old definition of 82½ per cent of fat. Now, so much for the history of the fat in butter, and that is the smallest part of the butter and the least important part of this proposition before you. There are a good many other things connected with butter making that are ten times more important to the consumer or the producer than this. Nobody knows, apparently, here, and you have nobody here to present evidence, as to what is even good commercial practice in butter making, except these standards that have been presented here. Nobody has stated what is good commercial practice in the opinion of these gentlemen here or of myself or of others.

**Mr. TINCER.** What is your opinion about it?

**Mr. ABBOTT.** We have expressed our opinion in this 82½ per cent standard. That was our expression of what was good commercial practice, but, mind you, at the same time we did that, the men on that Standards Committee—and they were scientific men, every one of them—realized that we do not know what the standard should be from the standpoint of science. There may be a definite ratio between the moisture content and the fat content that makes for a better product, for a better keeping product, and for a better butter and for better commercial practice and more economical in every sense, but nobody knows what it is. Just before Doctor Alberg left—

**Mr. TINCER** (interposing). Were you a member of this board?

**Mr. ABBOTT.** Yes, sir.

**Mr. TINCER.** Did you help to make the standard of 82½ per cent?

**Mr. ABBOTT.** Yes, sir.

**Mr. TINCER.** And then you quit the Department of Agriculture and went working for the oleomargarine people?

**Mr. ABBOTT.** Yes, sir; and I am just as much of a farmer as the butter maker. The beef fat and the cottonseed oil and the peanut oil and the salt and the milk and everything else we use in the manufacture of oleomargarine are an American agricultural product, if you please.

**The CHAIRMAN.** What you want to do is to substitute hog fat and oleo oil for butter fat?

**Mr. ABBOTT.** This product is in competition with our product and I submit that our people ought to have a chance to be heard in connection with this matter, if you are going to amend this law, not only with respect to the butter fat content and the moisture content, but with respect to the coloring matter and what butter shall be made of and how it shall be made, etc., according to our present knowledge of the business.

**Mr. VOIGT.** Can you now see any objection to this bill?

**Mr. ABBOTT.** My opinion on the bill is on record. I am on record for 82½ per cent as the standard.

**Mr. TINCER.** That was when you were with the Department of Agriculture.

**Mr. ABBOTT.** That was three years ago.

**Mr. ASWELL.** Do you still believe that?

**Mr. VOIGT.** I want to know what your idea is now. What is your objection to this bill now?

Mr. ABBOTT. Mr. Congressman, I do not think you ought to make me give my personal views on this, as long as I am representing a body of people who are in another business, but I do not mind saying that I think 82½ per cent for a standard is right. Now, mind you, in commercial practice there will be little butter makers who will sometimes run below 82½ per cent fat, say 81, what are you going to do with them if you had an 82½ per cent standard? You would say as a matter of tolerance and as a matter of justice, "we will let him go and will not prosecute on that." This honorable body has put itself on record as in favor of tolerances. If you put the standard at 80 per cent, then there will be sold all over this country butter with 78½ per cent or 79 per cent and nobody will ever be prosecuted for doing that because they will submit that that is a reasonable tolerance.

The CHAIRMAN. That is what is being done now, is it not?

Mr. ABBOTT. Yes; with 82½ per cent, they have adopted a reasonable tolerance in actual practice, so I understand, in the Bureau of Chemistry, and they do not prosecute a man if it runs 81½ per cent or 82 per cent.

Mr. TINCER. Let me see if I understand this matter. The Massachusetts law had a good deal to do with agitating this subject, and the Massachusetts law will take effect about the 1st of August and will provide for 82½ per cent. That would bar any butter being shipped into the State of Massachusetts with less than 82½ per cent butter fat, and if that did bar a lot of butter manufactured by the constituents of my friend Ten Eyck or my friend Clarke up in New York from going into Massachusetts naturally that would make a better market for oleomargarine in Massachusetts, would it not?

Mr. ABBOTT. The higher the price of butter and the lower the price of oleomargarine, of course, the more oleomargarine we can sell; that is true, but those are not the only factors that affect the consumption of oleomargarine. There are scores of other factors that affect the consumption of oleomargarine.

Mr. CLARKE. You have stated to the committee that it was a very scientific body that made up the standard here.

Mr. ABBOTT. Yes, sir.

Mr. CLARKE. Do you not think that in the consideration and determination of these standards, possibly due to the fact that the committee was so made up of scientific men, you may have lost too much the viewpoint of the ordinary individual farmers who manufacture butter and who have not the ability or knowledge or the facilities sometimes for making butter of that standard?

Mr. ABBOTT. That is quite possible. I told you that we realized that our standard did not have a scientific basis. We do not know from colloidal chemistry enough about that to know what the ratio of the moisture content to the fat content should be in order to make the best product possible according to the best commercial practice, but that fact ought to be established, if it can be established, before there is a Federal statutory standard on the product, in my judgment.

Mr. ASWELL. The record this morning shows that most of the States have statutes or regulations already established. What is the idea of wanting to interfere with the States? Why not let them go on and attend to their own business? We will be ultimately regulating everything and deciding on how many cows a man will be allowed to keep on his farm.

Mr. ABBOTT. Of course, that is a matter for your own consideration.

Mr. TINCER. Would that suggestion involve the repeal of the pure food and drugs act?

Mr. ASWELL. No, sir. The pure food and drugs act is all right as it stands, but these States have their own regulations and statutes under the pure food and drugs act.

Mr. TINCER. But we have a Federal regulation on it now and the question is whether it is correct or not.

Mr. VOIGT. Let me ask you a question right here: If Congress fixes the butter-fat content at 85 per cent instead of 80 per cent, the price of butter would go up, would it not?

Mr. ABBOTT. Yes, sir; it would, per pound.

Mr. VOIGT. And the price of butter then being higher than oleomargarine there would be more reason on the part of the consumer to purchase oleomargarine; and that is the point you are interested in?

Mr. ABBOTT. Other things being equal, that is true. I want to say this much more to you: If you will take the trouble, before passing upon this bill, to get the data that was before the standards committee, that you have heard about,

you will get quite a lot of figures that will be quite interesting to you. I sent out a questionnaire to the State dairy and food commissioners of the several States throughout the country and asked them to go out and pick up some butter on the market indiscriminately and make an analysis of it and give me the result of the fat content of that butter, and it will be interesting to you to see what the little creameries are doing and what the larger creameries of the country are doing.

Mr. TINCER. What do you mean by that?

Mr. ABBOTT. I do not propose to give you those figures now.

Mr. CLARKE. How about butter produced by the individual farmer? Have you any record of that?

Mr. ABBOTT. Yes; we had some farm butter, too, and the figures in that compilation will give you some enlightening information. You take the housewives making butter and the little creameries making good, honest-to-God butter all over the country, and look at the figures and the percentage of fat in the butter they make, and then look at the figures on the butter that the larger factories make that have a better control and a more scientific control of the matter.

Mr. TINCER. What is the percentage in the first case?

Mr. ABBOTT. In general, the fat content is higher and the moisture content is lower in the butter made by the farmer housewife who knows how to make butter and also the little creameries making butter all over the country. The fat content is higher and the water content is lower in that butter.

Mr. MC LAUGHLIN of Michigan. The butter of the big manufacturers, then, has less butter fat and more water in it?

Mr. ABBOTT. In general, I said.

Mr. ASWELL. I think that is true.

Mr. ABBOTT. More than that, gentlemen, if you will take the trouble to go to the butter people, here in the Department of Agriculture, who handle butter—I do not mind saying that I heard Doctor Thompson say over there one day that they could put moisture into the butter and make it firm and nice and have a high percentage of moisture, too. You can take the books on butter making and the teachings of butter making and the magazines all over this country and read them and for years back you will see there has been a progressive teaching of the incorporation of water, or else of not taking the water out when they churn it, right up to the point of 16 per cent moisture. Whether it is good commercial practice to do that or not, I do not know.

Mr. TEN EYCK. You said that the farmer's butter had more fat in it than the creamery butter. Which butter brings the biggest price in the market as a general rule, the farmer's butter or the creamery butter?

Mr. ABBOTT. The creamery butter.

Mr. TEN EYCK. In other words, the consumer or dealer pays more for that water in the creamery butter than they do for butter fat in the farmer's butter?

Mr. ABBOTT. As I said a moment ago, the fat content and the water content are the least important factors in the price of butter. You know that.

Mr. MC LAUGHLIN of Michigan. There are other things involved.

Mr. ASWELL. Mr. Abbott, it is now nearly 12 o'clock and you said you were not ready to testify. What request have you to make?

Mr. ABBOTT. If you are going to consider this bill seriously, if you are going to amend the oleomargarine law, or if you are going to change this definition and standard for butter or act on it at all, we think there should be a hearing on it and that our people should have an opportunity to be heard on whatever angles they want to be heard on.

Mr. ASWELL. When would you want to be heard?

The CHAIRMAN. As I understand, you do not care to discuss the bill now, but you request that your people be given an opportunity to be heard; is that it?

Mr. ABBOTT. Yes, sir; I want them to have an opportunity to be heard.

Mr. ASWELL. When?

Mr. ABBOTT. At your pleasure, in a reasonable length of time, enough time to get them here.

Mr. ASWELL. How long will it take to get them here?

Mr. ABBOTT. I do not know. We can get them here as soon as the butter people can get here, I imagine.

Mr. ASWELL. They are already here.

Mr. MC LAUGHLIN of Michigan. I can not see how your people are in any way properly interested in this proposition. You are not making butter and you are not selling butter. You try to make your product resemble butter and do everything to approach the appearance of butter, and the nearer you

approach it the greater the fraud. There is not any question about that, and the more the people are deceived the nearer you approach the appearance of butter. I can not see how you are interested in the welfare of the butter maker at all.

Mr. ABBOTT. I beg to differ with you. I do not think it is a fraud for us to make a product as near like butter in every proper respect as we can.

Mr. McLAUGHLIN of Michigan. When it is made to represent butter, so that people will think they are buying butter—

Mr. ABBOTT. That is a different proposition.

Mr. McLAUGHLIN of Michigan (continuing). It may be something else besides fraud, but you will have to find the word to describe it, because I can not.

Mr. ABBOTT. If I sell you oleomargarine and tell you what it is made of and you know what it is, it does not make any difference how nearly it approaches the appearance of butter in every proper respect. It is not a fraud.

Mr. RAINY. And you sell it as oleomargarine?

Mr. ABBOTT. We do.

Mr. TINCER. I think in giving his views to the committee, while I do not know a great deal about butter, in my judgment you are a very good witness for the legislation, and I think the committee ought to hear all such witnesses.

Mr. ABBOTT. Mr. Chairman, if you will permit me on that little compliment from the gentlemen, I am as much in favor of real, fair, and square legislation with respect to this product and oleomargarine and every other product as any man in this world, and there is not anybody who can point to a word of act that I have ever said or done that would indicate that I am not for a square deal with reference to the production of any article of food.

Mr. McLAUGHLIN of Michigan. I would not say a word reflecting on you whatever.

Mr. ABBOTT. No; but you reflected on our product.

Mr. McLAUGHLIN of Michigan. But I can not escape the feeling that the people making oleomargarine and representing that industry will not come in here in the interest of the butter makers.

Mr. TINCER. With the Massachusetts law going into effect, which it is claimed by the department will have a tendency to injure the real, honest-to-God butter maker, and with the oleomargarine people protesting against our passing this law, I still insist that I think the gentleman has made a good witness for the legislation.

Mr. ABBOTT. Mr. Chairman, I do not think, myself, it is in the interest of the consumer for butter to be artificially colored when it is an inferior product. I can not go to the market down here and buy a pound of butter and know what I am getting until I taste it or smell it, because every pound looks alike. You can take the poorest, commonest, rottenest butter, made from rotten cream or from renovated cream, and color it yellow and stamp it creamery butter or fancy creamery butter, and that is what is happening to-day. Now, butter is the only article of food that can be artificially colored without any statement of the fact that it has been artificially colored. There is not another article in the market to-day that can do that.

Mr. McLAUGHLIN of Michigan. But it is still butter.

Mr. ABBOTT. It is artificially colored butter.

The CHAIRMAN. If there are no further questions?

(The committee thereupon proceeded to the consideration of executive business, after which it adjourned until Wednesday, June 21, 1922, at 9 o'clock a. m.)

COMMITTEE ON AGRICULTURE,  
HOUSE OF REPRESENTATIVES,  
*Wednesday, June 21, 1922.*

The committee met at 9 o'clock a. m., Hon Gilbert N. Haugen (chairman) presiding.

The CHAIRMAN. The committee will come to order. We will hear you, Mr. Loomis.

**STATEMENT OF MR. A. M. LOOMIS, 630 LOUISIANA AVENUE,  
WASHINGTON, D. C., SECRETARY OF THE NATIONAL DAIRY  
UNION.**

The CHAIRMAN. Will you give your full name, your address, and who you appear for, Mr. Loomis?

Mr. LOOMIS. A. M. Loomis; 630 Louisiana Avenue, Washington, D. C. Appearing as secretary of the National Dairy Union. Mr. Chairman, I have sent out copies of this bill to the directors of the National Dairy Union, an organization which represents the creameries particularly, and generally those people interested in the dairy industry in the United States. I have two telegrams in reply to the letter which I sent accompanying the bill. One is from Mr. J. R. Morley, of Owatonna, Minn. He is a director of the National Dairy Union, and has been familiar with this problem for many years. He is secretary and manager of the Cooperative Dairy Association of Minnesota, one of the successful dairy marketing organizations, as well as a successful creamery operator. His telegram is as follows [reading]:

OWATONNA, MINN., June 19, 1922.

A. M. LOOMIS,

*Washington, D. C.:*

The Haugen bill, H. R. 12053, defines the composition of butter exactly as desired by creamery and dairy interests in the Northwest. Eighty per cent of milk fat and not more than 16 per cent water is a perfect composition for the best butter, will be to the advantage of producer and manufacturer if enacted into law, and clear up the possibility of misunderstandings of present ruling of the Department of Agriculture.

NATIONAL DAIRY UNION,  
J. R. MORLEY, Director.

The other telegram is from Samuel Schlosser, a butter manufacturer of Indiana.

Mr. PURNELL. He is in my district.

Mr. LOOMIS. He has been down here and has had several conferences with members of this committee and other members, so you may know that he is a practical and experienced butter man. He is also a member of the National Creamery Butter Manufacturers' Association, and a member and officer of the Indiana Creamery Butter Manufacturers' Association. His telegram is as follows:

PLYMOUTH, IND., June 20, 1922.

A. M. LOOMIS,

*Washington, D. C.:*

Answering your inquiry why 80 instead of some other percentage? First, it is fair to both producer and consumer; second, all creameries have been operating on a 16 per cent moisture basis for a long time, which results in approximately 80 per cent fat, so all butter makers know how to comply with this standard; consequently its adoption will cause no confusion to the industry. We hope for the early passage of the bill.

SAMUEL SCHLOSSER.

THE NATIONAL DAIRY UNION,  
Lansing, Mich., June 19, 1922.

Mr. A. M. LOOMIS,

*Secretary National Dairy Union, Washington, D. C.*

DEAR MR. LOOMIS: I am in receipt of your communication of the 17th, inclosing copy of bill now being considered by the Committee of Agriculture.

Personally I have felt for a long time that we should have a definition of butter enacted into law. In my judgment such definition should provide for 80 per cent of fat and not more than 16 per cent water. I can not see where this would work an injustice to anyone. I think it would serve as a standard for the different States to conform to.

Very truly yours,

N. P. HULL, President.

The CHAIRMAN. Now, Mr. Loomis, would you care to express an opinion on the single or double standard? It has been requested that we have a single standard requiring 80 per cent butter fat, and say nothing about moisture. Have you any expression on that from the dairy people?

Mr. LOOMIS. I have no expression from the dairy people, and my opinion on that matter is of very little interest, excepting that I fear the reaction of an act of Congress now which does not mention the 16 per cent of water maximum on the court actions which will follow when the Internal Revenue Department at-

tempts to enforce their 16 per cent ruling. In the case of people who are fighting the 16 per cent ruling, in the cases that have been brought in court, if they can show to a court and jury that here is Congress, which has enacted a butter statute without mentioning the 16 per cent moisture, it seems to me it is giving them an added advantage in contesting these cases. Now, maybe, they ought to have this advantage; I don't know.

The CHAIRMAN. There could not be any more than 16 per cent of moisture if they put in 3 per cent salt and 1 per cent casein. As I understand it, less than 2 per cent of the butter manufactured is unsalted.

Mr. LOOMIS. I do not have those figures, Mr. Chairman, and as I say, I am not a practical butter man, and I have no judgment of my own to offer on it.

The CHAIRMAN. There seems to be a little controversy here between the creamery people as to whether there should be a double or a single standard. That has been a question for a long time, and as you know, we have had more trouble with this moisture proposition than we have had about any other proposition here. We have been held up all the time on the question of a little excess moisture. If we adopt a single standard requiring 80 per cent of butter fat, we would eliminate the whole question.

Mr. LOOMIS. My sole idea in the matter is to preserve and protect that statute.

The CHAIRMAN. You do not care to express any opinion on that then, do you, Mr. Loomis? You have no expression on that at all?

Mr. LOOMIS. Not at all.

The CHAIRMAN. Just one other question. Do you suggest including the enforcement of the act over in the Treasury Department also? Should that be included? Should the definition apply there?

Mr. LOOMIS. That is my judgment, that it should apply; yes, sir.

The CHAIRMAN. As well as to the Department of Agriculture?

Mr. LOOMIS. As well as to the Department of Agriculture, if not to the exclusion of the Department of Agriculture. And may I say just one word further; that that is due to the fact that the tax enforcement by the internal revenue covers all butter and not only butter in interstate commerce.

The CHAIRMAN. Thank you, Mr. Loomis. Now we will hear you, Mr. Reid.

**STATEMENT OF MR. E. B. REID, 838 MUNSEY BUILDING, WASHINGTON, D. C., REPRESENTING THE AMERICAN FARM BUREAU FEDERATION.**

The CHAIRMAN. Will you state your full name and your connection, Mr. Reid?

Mr. REID. E. B. Reid; representing the American Farm Bureau Federation. Mr. E. B. Heaton is in charge of the dairy work of the American Farm Bureau Federation, so as soon as I heard of your bill I telegraphed to Mr. Heaton to give us a word about it, and to let us know where his department stood on this matter. This morning I received the following telegram [reading]:

CHICAGO, ILL., June 20, 1922.

E. B. REID,

*American Farm Bureau Federation, Washington, D. C.*

This department is heartily in favor of making the standard of butter fat in butter 80 per cent. Questions, however, necessity of also having the 16 per cent moisture limitation. The enforcement of latter may do injury to the cooperative and small privately owned creameries. Just as the 82½ butter fat standard works to disadvantage of centralized creameries with sour cream, so a combination of 16 per cent moisture and 80 per cent fat would be to disadvantage of cooperative creameries with sweet cream and the necessity for very little salt. A single standard would be the fairest to all.

E. B. HEATON.

That is a single standard of 80 per cent butter fat.

The CHAIRMAN. The double standard, not less than 80 per cent butter fat, and not more than 16 per cent moisture?

Mr. REID. No, not the double standard; one standard.

Mr. TINCER. They favor the single standard?

Mr. REID. Yes.

The CHAIRMAN. Are there any others here who desire to be heard?

**STATEMENT OF J. J. FARRELL, SECRETARY OF THE DAIRY PRODUCTS ASSOCIATION OF THE NORTHWEST; SECRETARY OF THE NATIONAL DAIRY PRODUCTS COMMITTEE, WASHINGTON, D. C.**

The CHAIRMAN. Mr. Farrell, will you state your full name and your connection?

Mr. FARRELL. J. J. Farrell, secretary of the Dairy Products Association of the Northwest; also secretary of the National Dairy Products Committee. My home is in St. Paul, Minn.

Mr. McLAUGHLIN of Michigan. How are your associations made up, Mr. Farrell?

Mr. FARRELL. Of dairy manufacturers largely.

Mr. THOMPSON. Do your associations include the Northwestern Ohio Association?

Mr. FARRELL. We have a small organization in Ohio, a similar organization.

Mr. THOMPSON. Your organizations include those?

Mr. FARRELL. Yes.

Mr. THOMPSON. You are speaking for those now?

Mr. FARRELL. I am speaking for those that I happened to get telegrams from yesterday afternoon. I happened to be here on some other business yesterday morning and knew of this measure. I am speaking largely from the representation of our association in the Northwest, and as a butter maker myself.

Mr. THOMPSON. Do you operate a creamery?

Mr. FARRELL. I operate a creamery; yes sir.

Mr. THOMPSON. A very large one, is it?

Mr. FARRELL. No; mine has always been small. Now, first, Mr. Chairman, I have some telegrams which I have received, and which I would like to present.

Mr. THOMPSON. What is the nature of these telegrams?

Mr. FARRELL. On this particular subject.

The CHAIRMAN. Do you want to hand them in or do you want to read them?

Mr. FARRELL. Whichever the committee wishes.

Mr. McLAUGHLIN of Michigan. I would suggest that you read them so we may know now what they contain. The committee may wish to take action soon, and we would like to know what these telegrams contain.

The CHAIRMAN. Very well, Mr. Farrell, you may read them.

Mr. FARRELL. The first one I wish to read is from Mr. Wentworth, as follows [reading]:

ALGONA, IOWA, June 21, 1922.

J. J. FARRELL,

*National Dairy Products Committee, Washington, D. C.*

Urge for us single standard on butter 80 per cent fat. Professor Mortensen and C. R. Conway, Iowa Buttermakers Association, agreed. Each have wired Haugen they suggest higher standard on unsalted. Iowa Cooperative Creameries would suffer severely under double standard.

W. A. WENTWORTH, Secretary.

Mr. THOMPSON. What do you mean by a double standard?

Mr. FARRELL. Sixteen per cent moisture and 82 per cent fat, or 80 per cent, whichever is in the bill.

Mr. THOMPSON. And what does the telegram which you have just read, urge? Just one standard?

Mr. FARRELL. Yes; they urge one standard, one single butterfat standard.

Mr. ASWELL. How would the dairy manufacturers suffer if they had the double standard?

Mr. FARRELL. Because of the inability to control the moisture content of butter, I assume.

Mr. VOIGT. Right there let me ask you a question. Isn't it a very easy matter for a dairyman, a butter manufacturer, to determine the amount of moisture in butter by means of instruments which he has?

Mr. FARRELL. Well, at this season of the year it is not an easy matter.

Mr. VOIGT. Well, let us get this clear. Does not a butter maker in a creamery have a scientific instrument with which he can determine the amount of moisture in butter?

Mr. FARRELL. He has what is called a moisture test that varies with every sample that is taken. For instance, if we churn a churning of butter to-day, and there were fifteen 16-pound packages in that churning, and our churn

average will give us 15 $\frac{1}{2}$  per cent on test before we pack it into these packages, we can retest those tubs afterwards and it will be a miracle if we find two tubs that will test alike, that will test the same as in the churn.

Mr. VOIGT. Well, the tubs may not test alike, but the instrument with which the test is made is scientifically accurate, is it not?

Mr. FARRELL. Well, as near as samples may be taken of a product that is not constant in composition. It is just a weight problem, and a sample problem.

Mr. VOIGT. Well, when the butter maker makes butter he has an instrument at hand by which he can, without any trouble, positively determine whether he has over 16 per cent moisture in the butter?

Mr. FARRELL. Yes. He is supposed to have that at hand, and supposed to get it as near right as he can.

Mr. VOIGT. Well now, if he has the ready means at hand to determine scientifically the water content, how can it be a hardship on him to limit him to 16 per cent?

Mr. FARRELL. If you enact the double standard here of butter fat and moisture, you can legalize the internal-revenue rulings or regulations, and make such butter as may contain, inadvertently on the part of the manufacturer, 16 per cent or more of moisture, taxable at 10 cents a pound, and that applies to farmers as well as creameries.

Mr. VOIGT. Let me cite a case to you. I had a case about two months ago where a butter company in my district shipped a consignment of butter indirectly to Philadelphia. The butter was tested there, by Federal agents, and was found to run anywhere from over 16 to 18 per cent moisture, and these people had to pay this penalty of 10 cents a pound on that butter. Well now, is that not right?

Mr. FARRELL. If you are going to enact this bill into law and leave it an 80 per cent single standard it does not interfere with the adulterated butter act nor with the internal revenue regulation, but it does do this to the butter business of this country. You have sewed them up both coming and going by an act of Congress making a hard and fast standard for a food product that fluctuates in composition.

Mr. VOIGT. My understanding is that if a man ships butter now which contains less than 80 per cent fat that the Government will prosecute him?

Mr. FARRELL. It will seize the butter, and there are three provisions under which you can operate. One is, you can have it released under bond. The other is, if you do not wish it released it will be advertised for sale and sold by the Government and the proceeds turned into the Treasury, or they will destroy it by fire.

Mr. VOIGT. Then if a man does ship butter that does contain less than 80 per cent, the Government will proceed either against him or against his butter?

Mr. FARRELL. Yes; if they happen to find it.

Mr. VOIGT. Now, if a man ships butter which has more than 16 per cent moisture in it, the Government will also proceed against him or his butter.

Mr. FARRELL. Yes, sir; under the internal revenue regulations.

Mr. ASWELL. Is that not right?

Mr. VOIGT. I think it is.

Mr. FARRELL. Yes.

Mr. TEN EYCK. What is the use of the bill if that is the case?

Mr. FARRELL. What is the use of the double standard?

Mr. TEN EYCK. If it is all true as you said, Mr. Voigt, what are we going to accomplish more by this bill?

Mr. VOIGT. There is the question. While the Government, as I understand it, does proceed against butter containing less than 80 per cent fat or more than 16 per cent moisture, there seems to be some question in the law as to whether the Government actually has the power.

Mr. ASWELL. Well, does it proceed anyway?

Mr. VOIGT. It does proceed.

Mr. ASWELL. Then it must have the power.

Mr. VOIGT. Just a minute. Let me explain. The Government does proceed, but if the Government proceeds under the pure food law, for instance, the man that has shipped that butter is entitled to a jury trial under the present law, and he can go in and litigate the question before a jury as to whether he is actually putting out a fraudulent product, and so forth. In other words, he has got an opportunity to escape before a jury. But what is desired now is to pass a hard and fast rule which he can not get away from.

Mr. TEN EYCK. In other words, as I understand it, this takes away from the individual farmer the right of trial by jury, is that so?

Mr. VOIGT. No; it does not. It sets a definite standard.

Mr. TEN EYCK. Well, you mentioned the fact that if this bill passed, that this would be a definite fact, and the right of trial by jury would be eliminated.

Mr. VOIGT. No; I did not say that.

Mr. McLAUGHLIN of Michigan. It does not take away the right of trial by jury; but here is a standard fixed hard and fast that controls the court, and it does not permit the court or the jury, either one, to exercise any discretion there.

Mr. THOMPSON. How is this standard being fixed by law?

Mr. McLAUGHLIN of Michigan. It appears to be fixed by law now.

Mr. TEN EYCK. What is the difference in the penalty between the present ruling and the pending bill, if passed?

Mr. VOIGT. I do not think there is any difference.

Mr. McLAUGHLIN of Michigan. No.

The CHAIRMAN. We do not deal with the penalty.

Mr. THOMPSON. This is a bill to make law out of a ruling. Is not that the whole story in a nutshell?

The CHAIRMAN. Yes.

Mr. ASWELL. Well, is not the ruling established now?

The CHAIRMAN. Well, you give the department here the power to fix the rule.

Mr. ASWELL. Have you not established it?

The CHAIRMAN. When you define it in the law that settles the question.

Mr. ASWELL. Well, hasn't it already been established by the department?

The CHAIRMAN. Why, they have established a standard of 82½ per cent, and they are enforcing at 80 per cent.

Mr. ASWELL. The standard is established at 82½ per cent and they are enforcing at 80 per cent?

The CHAIRMAN. Yes.

Mr. ASWELL. That would be just as much a law as this is when it is enacted for all practical purposes.

The CHAIRMAN. The rulings of the department are as binding as this would be when it was enacted.

Mr. VOIGT. May I answer that, Mr. Aswell. There is a nice shade of difference here. The pure food law provides that if a man should put out a deleterious product or a product to which has been added any substance which is not as good as the article ought to be, etc., that then the article shall be considered adulterated within the meaning of that law. Now, that law does not say that butter containing more than 16 per cent moisture is an adulterated product.

Mr. ASWELL. But has not the department said that?

Mr. VOIGT. The department says so, but the department says so because universal experience has shown that good butter should not contain over 16 per cent moisture.

Mr. ASWELL. Well, the department has said that.

Mr. VOIGT. Yes, the department has said that, but that department ruling has not the force of law.

Mr. ASWELL. Can not they proceed and enforce it?

Mr. VOIGT. If a man does ship butter containing 18 per cent moisture, you would have to prosecute that man for putting into interstate commerce an adulterated food product.

Mr. ASWELL. And would not that be the effect of this law?

Mr. VOIGT. Now wait a minute. When that man asks for a jury trial and he gets before the jury, then it is for the jury to determine whether under the terms of the pure food and drugs act this 18 per cent does make an adulterated food product out of that butter.

Mr. ASWELL. Can not that be controlled by the rule of the department on that particular point?

Mr. VOIGT. It has not the force of law. The jury might look at it this way: "Well, this man got the 18 per cent in there through no fault of his own." Or he might have some explanation to make.

Mr. ASWELL. Could not the jury say the same thing under this bill if it should be enacted?

Mr. VOIGT. No; the jury could not say the same thing, because this act makes him liable if he has got over 16 per cent of moisture.

Mr. ASWELL. Regardless of whether it is intentional on his part or not?

Mr. VOIGT. Yes; regardless of whether it is intentional on his part or not, because he has got it absolutely within his power when he makes that butter. The tendency is now on the part of some men who manufacture butter to get just as much moisture in it as the trade will bear.

Mr. FARRELL. No; I beg your pardon; as the moisture regulation of the Internal Revenue Department allows; not as the trade will bear.

Mr. VOIGT. Let me say this. I just referred to a case that I have had in my own experience—I do not care to mention any names, but a concern wrote me about it, and I had this matter adjusted for them. They had something like 2,500 pounds of butter that they had made at different factories under their control, and nearly all of this butter ran over 16 per cent moisture. Some of it ran 18 per cent moisture. Now, of course, they were my constituents, and I adjusted the matter to the best of my ability. They paid the penalty, but they got away from some other penalties that were connected with it.

Mr. FARRELL. They paid the stamp tax of 10 cents a pound.

Mr. VOIGT. But I was not convinced that those men were perfectly innocent in that case. My opinion was that they did not use ordinary diligence to keep the excess moisture out.

Mr. FARRELL. They got penalized sufficiently; they paid 10 cents a pound.

Mr. VOIGT. Yes; they paid 10 cents a pound, but how many tubs of butter are there that escape, that are not detected by the Government officials, and where the man who buys the butter gets water for his money instead of butter.

Mr. ASWELL. Now, Mr. Voigt, let me ask you. Under this proposed bill the man who violates the law and gets more moisture in his butter than is specified is punished regardless of whether it is intentional or not?

Mr. VOIGT. Yes; that is my understanding.

Mr. ASWELL. Now, what effect does that have on the individual small farmer, the man who produces a small quantity of butter and has no way of determining scientifically how much water there is? According to your statement he will be punished just the same, regardless of his ability or inability to get the facts? There will be no consideration of his inability to get the facts?

Mr. VOIGT. Now, let me say right there that I do not think you will find one pound of butter in 10,000 made by a farmer that has 16 per cent of moisture in it.

Mr. ASWELL. Then why do you not bring the others down to the farmers' standard? Bring the others down to it.

Mr. VOIGT. Well, I assume that 99 per cent of all the butter that is sold in the United States contains approximately 16 per cent of moisture.

Mr. FARRELL. Mr. Chairman, may I answer that question which the gentleman has just asked?

The CHAIRMAN. Yes.

Mr. FARRELL. The Internal Revenue Department exempts the farm butter from its regulations when it is known as such.

Mr. ASWELL. Couldn't you do it under this law?

Mr. FARRELL. But under this law it won't have that exemption, will it, if you have a double standard?

The CHAIRMAN. That is for the department to say whether it will enforce the act or not. It is just as much the duty of the department to enforce its ruling as it is the act itself. Now, for instance, the State of Wisconsin and the State of Missouri have each a law that requires 82½ per cent of butter fat, but they have never enforced that law. That is a statute of each of those States.

Mr. TEN EYCK. Mr. Chairman, that is just the point. I have been in communication with a great many farm organizations, and none of them seem to know much about this bill, and none of them are opposed to it. Some of them tell me to use my own judgment, and others tell me that they feel the bill is all right.

Mr. ASWELL. How do they know anything about this bill?

Mr. TEN EYCK. That I do not know. Now, my idea is this, that we have got to be pretty careful if this bill is going to read the farmer into a hard and fast rule, where heretofore, as the gentleman who is testifying has just stated, under the ruling they have exempted him, and also have been able or are in the position to consider the case and act, whether it was intentional or non-intentional. But when we put a hard and fast law on the books, it, to my mind, is going pretty far, and we want to consider it pretty seriously and carefully.

Now, I want to call the gentleman's attention to another thing. Only a week or two ago the Secretary of Agriculture came before this committee and advised us not to make a hard-and-fast rule on the grading of wheat; that he wanted

to leave that to his own department; that he felt that he could do it a great deal better. Now, to-day he comes down and says that he wants to make a hard-and-fast rule on butter. Now, I do not want to see butter made fish of and wheat made fowl of. I think that what we want to do is to treat the farmer in one instance the same as we treat him in the other; and even though my farmers are, from all the information that I can gather from them, rather in favor of this bill, still I want to be sure that they are not going to get the worst of it when the bill once gets on the statute books.

Mr. VOIGT. Mr. Ten Eyck, I do not think you need to have any fears about this 16 per cent. I do not believe that you could go into your home town and buy a pound of butter made by a farmer that contains 16 per cent moisture.

Mr. TEN EYCK. Well, we make a lot of butter on my farm, and we sell a lot of butter; and to be perfectly frank with you, I do not know what the per cent of water in that butter is. All I know is we try to make the best butter that we possibly can, and I consider it A-No. 1 butter, and it is bought as such.

The CHAIRMAN. As you know, the dairy people and everybody interested in dairying for a number of years have been contending for this one thing. They have been at the department time and time again suggesting that the standard be changed to be 80 per cent, to change this ruling, but the department has never made that change, but they have enforced only the 80 per cent butter fat standard.

Now comes this question over here in Massachusetts. They have an 82½ per cent fat standard. They are going to enforce it after 30 days. Butter coming into Massachusetts must be so high in butter-fat content that it would be an embarrassment to anyone who ships butter into that State. Now here are the States of Wisconsin and Missouri. They have this 82½ per cent requirement, but they have never enforced it. It is not being enforced anywhere. The practice is to require 80 per cent. If that is the general practice why should it not be adopted by law? If that is what the department wants, if that is what the dairy people want, and if that is what the consumer wants, why should it not be made a law?

Mr. TEN EYCK. Mr. Chairman, the enactment of this bill will not prevent Massachusetts from still demanding 82½ per cent, and penalizing anyone who sends butter into Massachusetts containing less than 82½ per cent of butter fat. This does not assure us that Massachusetts is going to change her law. Now I want to say this, that if this comes up for a vote to-day, with the information that comes to me from my State, I am going to vote for the 80 per cent, but I do not want to tie it up any further with 16 per cent water.

Mr. THOMPSON. You are, Mr. Ten Eyck, in other words, for the single standard?

Mr. TEN EYCK. Yes. I will vote to-day for the single standard from the information that I get from my farmers.

The CHAIRMAN. That seems to be the sentiment of all the representatives of the dairy interests here. Mr. Loomis said he did not care to express an opinion, but was not that the understanding we had from you, Mr. Reid, representing the American Farm Bureau Federation?

Mr. REID. Yes.

The CHAIRMAN. Is that not the understanding we have from you, Mr. Farrell?

Mr. FARRELL. I would much prefer that the department would modify their regulation to 80 per cent, as they are enforcing it, but if we are to have a bureau setting a standard for a food product, a standard fixed by an act of Congress, we can not stand for anything other than a single 80 per cent fat standard.

Mr. TEN EYCK. In other words, you would rather have the department continue on and do what it does with an 80 per cent ruling?

Mr. FARRELL. With the 80 per cent; yes—not 82½ per cent.

Mr. ASWELL. I would like to ask a question for information. I would like to know why there is the demand for an 80 per cent standard of fat and opposition to the 16 per cent moisture. If we are going to make one why not make the other? Why not have both? One is just as important as the other.

The CHAIRMAN. That is for the committee to determine. I think it would simplify matters if you make the single standard.

Mr. ASWELL. Well, why?

The CHAIRMAN. As I have told you. I have spent more time with the department on this one particular thing than I have on anything else.

Mr. ASWELL. You do not want any limitation on moisture at all, according to your standard?

The CHAIRMAN. I am perfectly willing to do either thing. I want to defer to the wishes of the dairy people. I think it is immaterial, because when you require 80 per cent butter fat that limits the moisture, because the average amount of salt and casein is about 4 per cent, according to the experts here.

Mr. ASWELL. If you can not tell how much water there is, how are you going to tell how much fat there is?

The CHAIRMAN. Well, 80 per cent, the amount of butter fat, from 100 per cent, leaves 20 per cent. Three per cent of salt leaves 17 per cent. And 1 per cent casein leaves 16 per cent. But, generally, it is  $4\frac{1}{2}$  per cent salt and casein, so the total would be  $84\frac{1}{2}$  per cent.

That leaves only  $15\frac{1}{2}$  per cent of moisture. Now, those are the only things they can put into it. You have one-half of 1 per cent to go on. Of course, there is always the rule of tolerance. I take it there would be about 1 per cent of tolerance, and when you say 80 per cent that means probably about 79 per cent, but you have that leeway of one-half of 1 per cent, and it actually, absolutely confines it to 16 per cent, unless it is unsalted butter, because those are the only things you can put into it. The only things you can put into it are salt, casein, the butter fat, and water. That is what the definition provides.

Mr. VOIGT. Mr. Chairman, will you tell us, if you know, how much unsalted butter there is made in proportion to the total amount?

The CHAIRMAN. I have been told that the unsalted butter is about 2 per cent. Some hotels are serving unsalted butter. Some hotels are serving white instead of colored butter. Some of the best hotels are serving the white butter; they prefer it. Others prefer the unsalted, and it is made to accommodate the trade.

I would like to ask you, Mr. Farrell, how much of the butter manufactured is unsalted?

Mr. FARRELL. I would say not more than 5 per cent of the commercial butter is unsalted butter. That is for table use, you know. We manufacture some for ice-cream purposes that we do not put salt in. Taking it all told I would say that not more than 5 per cent of the butter manufactured, commercial butter and for table use, is unsalted. I do not think it will reach that.

The CHAIRMAN. I understood you to say 2 per cent.

Mr. FARRELL. That is for table use—2 per cent.

Mr. VOIGT. Two per cent for table use?

Mr. FARRELL. Yes.

The CHAIRMAN. Well, I believe we understand you, then. You favor the single standard requiring 80 per cent of butter fat, do you, Mr. Farrell?

Mr. FARRELL. Yes. Now, I have the following telegram from the Missouri Association [reading]:

WILLOW SPRINGS, Mo., June 20, 1922.

J. J. FARRELL, Washington, D. C.:

Wire received. Our association unanimously in favor single fat standard 80 per cent. Would recommend amending bill.

L. N. MOORE.

Mr. ASWELL. Did you get any telegrams favoring both standards or favoring the double standard?

Mr. FARRELL. I have one.

Mr. ASWELL. Where from?

Mr. FARRELL. From Nebraska.

Mr. ASWELL. That is a butter country?

Mr. FARRELL. Yes.

The CHAIRMAN. Who is that from?

Mr. FARRELL. Professor Hecker wired me this morning that they thought they could accept a double standard. It is a sort of personal telegram.

The CHAIRMAN. Who is he?

Mr. FARRELL. Professor Hecker has been professor of dairying out in Nebraska for a number of years, and now he is secretary of an association.

Mr. VOIGT. Do I understand that you telegraphed all of these people?

Mr. FARRELL. No, sir; only the few associations that have wired me. If I should send them all telegrams, I would have to send a thousand or more.

Mr. ASWELL. Did you not ask them their position, giving your opinion, and so on?

Mr. FARRELL. No; I just wired and told them about the bill.

The CHAIRMAN. I have a number of telegrams here that I wish to read. I have one from Mr. Wentworth, and one from Mr. Crowley; they seem to favor the bill. This telegram is from Mr. Wentworth, Des Moines, Iowa [reading]:

"Legislation which will reduce the Federal standard for fat butter to 80 per cent is highly desirable at this time. Your efforts to secure this will be greatly appreciated.

W. A. WENTWORTH.

Mr. ASWELL. Who is he?

The CHAIRMAN. He represents the dairy people in Iowa. Here is another one from him [reading]:

Hon. G. N. HAUGEN,

*House Office Building, Washington, D. C.:*

Butter standards conference with Professor Mortenson, National Butter-makers' Association, and C. R. Conway, Iowa Buttermakers' Association, develops unanimous opinion favor single standard 80 per cent fat. We urge this to stabilize butter industry. Double standard would be hazardous. Possible should adopt higher fat standard for unsalted butter.

W. A. WENTWORTH,  
*Secretary Iowa Dairy Council.*

Then I have two telegrams from Mr. Crowley, as follows [reading]:

DES MOINES, IOWA, June 19, 1922.

G. N. HAUGEN,

*House of Representatives, Washington, D. C.:*

It is my understanding that about the only relief that we can receive at the present time in the Federal ruling of 82½ per cent in butter is by way of legislation. Any efforts which you may use in bringing about this result will be appreciated.

P. W. CROWLEY.

DES MOINES, IOWA, June 21, 1922.

Hon. G. N. HAUGEN,

*House of Representatives, Washington, D. C.:*

We are in favor of single 80 per cent butter-fat standard.

P. W. CROWLEY.

Mr. ASWELL. What does he mean by wanting relief?

Mr. MC LAUGHLIN of Michigan. Well, the percentage now under the ruling of the department is 82½ per cent.

Mr. ASWELL. You say it is not universal.

Mr. MC LAUGHLIN of Michigan. Well, in some instances.

The CHAIRMAN. I have here a telegram from Mr. Morley, as follows [reading]:

OWATONNA, MINN., June 20, 1922.

Hon. G. N. HAUGEN,

*House of Representatives, Washington, D. C.:*

Letter and copy of bill received. Am wiring Loomis the desire of the interests in the West. Your standards of composition exactly right. Would urge the passage of the bill to clear up an unworkable ruling.

NATIONAL DAIRY UNION,  
J. R. MORLEY, Director.

Then I have one from Mr. McKay, who is here and will speak for himself.

Mr. MC LAUGHLIN of Michigan. Mr. Farrell, have you put into the record what you read to me this morning about the contest where many samples of butter were exhibited, samples coming from creameries and passed upon by experts in that contest?

Mr. FARRELL. No.

Mr. MC LAUGHLIN of Michigan. You have not put that into the record yet?

Mr. FARRELL. No, sir.

Mr. MC LAUGHLIN of Michigan. Will you do so?

Mr. FARRELL. Yes, sir; I will be glad to do so. That is why I am opposing the double standard by law.

The CHAIRMAN. Here is a telegram from Mr. Hilman, who is very active in the dairy industry. [Reading:]

WAVERLY, Iowa, June 20, 1922.

Hon. GILBERT N. HAUGEN,

*House Office Building, Washington, D. C.:*

Yours date your butter bill introduced in House 16th double standard of 80 per cent milk fat and 16 per cent water added to requoted laws is just as it should be. Do not permit any change of amendments. Get it passed quick as you can. Wrote you 19th.

CHAS. F. HILMAN.

And there are a number of other telegrams and letters.

STATE OF IOWA,  
DAIRY AND FOOD COMMISSION,  
DES MOINES, June 20, 1922.

Hon. G. N. HAUGEN,

*Washington, D. C.*

DEAR SIR: In reply to your communication of June 17 I will say that I am heartily in sympathy with House bill 12053, in which the existing standard of 82 per cent milk fat is changed to 80 per cent, and I sincerely hope that you may be successful in getting Congress to make this change.

Yours truly,

R. G. CLARK,  
*Commissioner.*

WATERLOO, IOWA, June 20, 1922.

Hon. G. N. HAUGEN,

*House of Representatives, Washington, D. C.*

MY DEAR MR. HAUGEN: I hasten to reply to your letter of the 17th, although I fear my letter will not reach you by Wednesday.

I heartily concur in your action, and I congratulate you upon the initiative you have taken in this respect.

If in any way I can be of assistance to you, I trust you will not hesitate to command me.

It is needless for me to go into details relative to the reasons why butter should be defined as containing not less than 80 per cent of milk fat instead of 82½ per cent, because I am aware that you have full knowledge regarding the fact.

I sincerely hope you will succeed with the enactment of H. R. 12053, for such enactment will mean much to the farmers and dairymen of this country.

With kindest regards, I am,

Yours sincerely,

THE DAIRY FARMER,  
HUGH G. VAN PELT,  
*Managing Editor.*

CEDAR RAPIDS, IOWA, June 19, 1922

Hon. GILBERT N. HAUGEN,

*Chairman Committee on Agriculture,*

*House of Representatives, Washington, D. C.*

DEAR MR. HAUGEN: I have your esteemed letter 17th instant inclosing copy of bill (H. R. 12053) introduced by you on June 16, 1922, and same has my entire approval. It is absolutely fair to all.

I trust you will get same out of committee promptly and vote taken by the House very soon, before adjournment; and passed on to Senate so they can vote on it, go to conference, and sent to the President for his signature, so we can have relief from the bad conditions that exist in the United States in the dairy industry before another crop will be in the making.

Presume that you will attend to appropriation to enforce, or the Department of Agriculture will care for same from theirs?

When you have H. R. 12053 without any amendments or additions into law you will have accomplished just what our dairy industry needs.

With my very kindest regards, I am,

Yours very truly,

CHAS. F. HILMAN.

CHICAGO, June 22, 1922.

Hon. GILBERT N. HAUGEN,  
*Washington, D. C.*

DEAR SIR: This will acknowledge receipt of copy of H. R. 12053 and notice regarding hearing upon the same.

Not being connected now with "Chicago Dairy Produce," having disposed of my interest some time ago, I am not in position to follow up this matter as would otherwise be the case, though I may say that the measure appears to be justified and I believe nobody can offer a valid objection to its passage, for 80 per cent fat in butter is certainly a reasonable requirement, and the present requirements for less than 16 per cent moisture is so generally accepted as being correct that I see no basis for opposing this measure, unless perhaps those who make "monkey food" to foist upon the public will claim that it will hurt the r' game. But since these counterfeiters are entitled to little or no sympathy at the hands of decent people I assume that their objections will not be taken seriously.

Very truly yours,

W. T. SEIBELS.

CARTHAGE, Mo., June 24, 1922.

Congressman G. N. HAUGEN,  
*Washington, D. C.:*

Am in favor of defining butter by adding to the present definition "and 16 per cent moisture."

E. G. BENNETT,  
*Missouri Dairy Commissioner.*

GOOD HOUSEKEEPING,  
 BUREAU OF FOODS, SANITATION, AND HEALTH,  
*Washington, D. C., June 28, 1922.*

Hon. GILBERT N. HAUGEN,  
*Chairman Committee on Agriculture,  
 House of Representatives, Washington, D. C.*

DEAR MR. HAUGEN: Absence from the city prevented my appearing before your committee yesterday, when the new butter bill, H. R. 12053, was under consideration. In case the hearings are closed I would be glad if you would incorporate the inclosed memorandum in the minutes of the hearing, and call it to the attention of the other members of the committee when the bill is under consideration.

I am, respectfully,

H. W. WILEY.

## MEMORANDUM OF DR. H. W. WILEY.

I desire to call the attention of the members of the committee to lines 7 and 8 of the above-mentioned bill. The food standards committee, under authority of Congress, fixed the standard of butter, found on page 5, Circular 136, United States Department of Agriculture, office of the Secretary, entitled, "Standards of Purity for Food Products," issued June, 1919, of "not less than 82.5 per cent of milk fat."

The hearings preceding the fixing of this standard were publicly advertised and numerously attended by all interested parties, including manufacturers and dealers. Hundreds of analyses of good butter bought on the open market were carefully studied. The committee consisted of representatives of the Department of Agriculture, the Association of Official Agricultural Chemists, and the State and National Dairy and Food Commissioners' Association.

Before changing a standard thus carefully prepared, a full consideration of the subject should be had. As one of the members of the committee who fixed this standard, I desire to state the reason which induces me to express the hope that this part of the standard will not be lowered.

Under the present standard the total quantity of water and salt which may find a place in butter amounts to 17.5 per cent. As the quantity of salt is in-

creased the quantity of water which may be present is necessarily diminished. As even the best butter contains a trace of curd and ash it would not be safe to manufacture it with more than 15 per cent of moisture. All high-grade butters contain less moisture than that. The proposed standard will permit the addition of 20 per cent of materials not butter fat. As the proposed standard limits the quantity of water to 16 per cent, it would be possible with that percentage of water to add 4 per cent of salt and natural curds and ash to the butter. By diminishing the quantity of water, 4 to 5 per cent of such additional matters would find their way into butter. This would tend to produce a very low grade of butter, thus bringing standard butter into disfavor and promoting its adulteration.

Such a condition would result in a great detriment to the dairy industry, and bring into competition with a really first-class butter a debased and undesirable article.

**Mr. TEN EYCK.** Mr. Chairman, there is a suggestion I have to make here, and that is to have this bill only apply to those who are engaged in the manufacture of butter. That will exclude the individual farmer, and I believe to a certain extent we ought to exclude him from coming within the purview of this bill if it is possible. Now, I merely offer that as a suggestion.

**The CHAIRMAN.** We will take that up when we get through.

**Mr. TEN EYCK.** Very well.

**Mr. FARRELL.** Here is another telegram. [Reading:]

MINNEAPOLIS, MINN., June 20, 1922.

**J. J. FARRELL,** Washington, D. C.:

We are not in favor of a double standard. Would favor 80 per cent fat.

SAMUELS BROS. Co.

And another one from Minneapolis, as follows. [Reading:]

"We are not in favor of a double standard. Would favor 80 per cent fat.

"EDWARDS BROS."

**The CHAIRMAN.** Who are they?

**Mr. FARRELL.** Creameries.

**Mr. VOIGT.** May I ask you whether you have a copy of the telegram which you sent to these people?

**Mr. FARRELL.** I haven't got it here.

**Mr. VOIGT.** Can you state exactly what was in it?

**Mr. FARRELL.** I can give it to you. I can get it for you later if you wish.

**Mr. VOIGT.** Can you state now what was in the telegram that you sent?

**Mr. FARRELL.** "Butter bill introduced in Congress requiring a double standard; 16 per cent moisture, 80 per cent fat. Are you in favor of the double standard or single standard?"

**Mr. VOIGT.** Did you say anything in your telegram to the effect that you were not in favor of the double standard?

**Mr. FARRELL.** I did in some of them that have asked my view of it. I have never been in favor of the double standard. I have been on record on that for years.

**Mr. ASWELL.** May I interrupt with a question, Mr. Chairman? The evidence is very conclusive that the dairy people themselves, the manufacturers, are very much in favor of this, but have you heard anything from the consumers of butter, the people that buy the butter? Have you any information, any telegrams, or any communication from consumers of butter?

**The CHAIRMAN.** No. All these telegrams are voluntarily sent in.

**Mr. ASWELL.** All in the special interests of their own business.

**The CHAIRMAN.** I arranged with Mr. Loomis to confer with his people, and that I should send copies of the bill to the parties that I have heard from.

**Mr. ASWELL.** I would like to know what the average consumer thinks about this.

**Mr. FARRELL.** It does not affect the average consumer.

**The CHAIRMAN.** I think the consumer wants an honestly made article, and he wants 80 per cent, and he does not propose to buy butter at 60 per cent where he is entitled to 80 per cent. It is just as much protection for the consumer as it is for the producer.

**Mr. FARRELL.** This requires an 80 per cent minimum. It does not say that it is going to be lower than it has been. It is all going to be 80 per cent, as it has run for years. You can not change it much.

Mr. ASWELL. If you can not change, what is the use of legislating?

Mr. FARRELL. You have got to set the minimum standard, because otherwise people will go to adulterating. I am not in favor of repealing the adulterated butter act, but I am in favor, if you pass this measure, to pass the single fat standard, and that will leave the internal revenue act intact, but I do not see why the dairy people should be sewed up by a double standard in a food product when no other industry is. You are getting them going and coming. Here is a case of 81.50 per cent of fat in butter, and 15 per cent of moisture. Here is another case of 17.5 per cent of moisture and 79.98 per cent of fat. And here is a case of 15.80 per cent of moisture and 81 per cent of fat. And many of them run right along in that way; it fluctuates with the salt and the casein. Now, we can approximately control this matter. But that butter maker does not live who controls it to exactness. Approximately we can control it.

The CHAIRMAN. What is the tolerance that is applied? Is it about 1 per cent?

Mr. FARRELL. Well, the dairies now allow 2½ per cent.

The CHAIRMAN. What would be the tolerance if we adopted 80 per cent fat standard, Mr. Larson?

Mr. C. W. LARSON (representing the dairy division of the Department of Agriculture). There is none adopted that I know of.

The CHAIRMAN. No; there is none adopted, but one will have to be adopted. The court will adopt it.

Mr. FARRELL. If you enact this bill into law, Mr. Chairman, there will not be any tolerance.

The CHAIRMAN. The courts will take care of that. There is always tolerance. They would not convict on 79½ or 79.

Mr. FARRELL. May I recite this incident, Mr. Chairman. The internal revenue department now have a carload of unsalted butter that ranged in fat from 81 per cent to 83½ per cent; that butter was seized and declared adulterated butter because it had some packages that contained 16½ per cent and 16.70 per cent and so on, of moisture. Yet the average content of that car of butter was under 16 per cent, but they had to pay their penalties.

The CHAIRMAN. They do not go on averages, of course.

Mr. MC LAUGHLIN of Michigan. Mr. Farrell has some interesting particulars concerning a contest, which he told me of. They were interesting to me, and I believe they would be interesting to the committee. It is a report of a contest in an exhibit of butter. Samples were sent by a very large number of creameries, reliable creameries, to this contest, where the butter was examined by skilled, experienced judges, and there is a record there of the average percentage of butter fat in all those exhibits, and some figures there show the averages of moisture in butter made and exhibited in that way. I think it would be interesting to the committee to have Mr. Farrell tell about that, and put the figures in the record.

The CHAIRMAN. Why not have him insert it in the record?

Mr. MC LAUGHLIN of Michigan. Whatever you prefer.

The CHAIRMAN. Can you give us that so it can be incorporated in the record, Mr. Farrell?

Mr. FARRELL. I can copy it for you. I want this record, but can make a copy for you.

The CHAIRMAN. You just now referred to a number of them?

Mr. FARRELL. Yes.

The CHAIRMAN. How many cases are there in that record?

Mr. FARRELL. One hundred and ninety-nine samples of butter made in cooperative creameries, sent to a scoring contest in Minnesota, and many of these samples contained 80 and 81 per cent of fat and 16 and 16 and a fraction per cent of moisture.

Mr. MC LAUGHLIN of Michigan. What percentage of all those run above 16 per cent?

Mr. FARRELL. Of the 199 samples, 39, or 19.5 per cent contained less than 80 per cent of fat.

Mr. MC LAUGHLIN of Michigan. Well, how about moisture?

Mr. FARRELL. I would have to go through all these figures and find out.

Mr. MC LAUGHLIN of Michigan. I thought you had those figures prepared?

Mr. FARRELL. No; this is a record of these samples, showing the per cent of fat. We were endeavoring to have a fat standard of 80 per cent established. While the moisture figures are given in another column they are not given here.

The CHAIRMAN. Without objection, they will be incorporated in the record.  
 (The information to be furnished by Mr. Farrell is here printed in the record,  
 as follows:)

*Butter made in some of the best Minnesota creameries,*

	Fat content.	Moisture content.		Fat content.	Moisture content.
	Per cent.	Per cent.		Per cent.	Per cent.
Sample No. 1.....	80.98	16.1	Sample No. 8.....	81	16.60
Sample No. 2.....	80.86	16.7	Sample No. 7.....	82	16.3
Sample No. 3.....	81.75	16	Sample No. 8.....	78	18.40
Sample No. 4.....	79.05	16	Sample No. 9.....	80	16.60
Sample No. 5.....	81	15.80	Sample No. 10.....	79.65	16.10

Mr. FARRELL. I have several telegrams which I would like to read.

The CHAIRMAN. You may do so.

Mr. FARRELL (reading):

ST. PAUL, MINN., June 20, 1922.

J. J. FARRELL, Washington, D. C.:

Protest vigorously for us against double standard or any new laws regulating manufacturing of butter. We think the present standard of 82 should be amended to read 80. Any further changes may prove detrimental rather than beneficial.

TILDEN PRODUCE CO.

ST. PAUL, MINN., June 20, 1922.

J. J. FARRELL, Washington, D. C.:

We strongly favor a single standard for butter and believe the fat standard is really the only sensible and practical standard. If we can not secure fat standard would prefer no change at all from present situation as we do not believe it can be improved any other way.

NORTHERN PRODUCE CO.

ST. PAUL, MINN., June 20, 1922.

J. J. FARRELL, Washington, D. C.:

Agree with you, fat standard alone is best. Believe dairy products members all agreed. Try get bill amended committee and get enough American Association members to back you.

THE R. E. COBB CO.

The CHAIRMAN. Who are they?

Mr. FARRELL. They are manufacturers of butter.

Mr. ASWELL. Now that telegram says "We agree with you." That shows that you showed in your wire how you stood.

Mr. FARRELL. Yes, I did to some of them. They know how I stand. They belong to our association.

Mr. WALKER of the Blue Valley Creamery Co. sent the following telegram:

ST. PAUL, MINN., June 20, 1922.

J. J. FARRELL, Washington, D. C.:

Am not particularly opposed to double standard but am opposed strongly to giving any opportunity to our opponents upon the floor of Congress to amend present oleomargarine laws possibly reducing 10 cent tax. Think likely we should continue our efforts to have standard changed by department ruling rather than by requesting special legislation. Will be glad to attend hearing if it can be postponed one week.

J. A. WALKER.

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Here is another. [Reading:]

MINNEAPOLIS, MINN., June 20, 1922.

J. J. FARRELL,

*Washington, D. C.:*

We favor 80 per cent fat standard; single standard only.

EIDSVOLD CRY. CO.

This is from the president of the Kansas Association. [Reading:]

WICHITA, KANS., June 20, 1922.

J. J. FARRELL,

*National Dairy Products Committee, Washington, D. C.:*

Answering wire regarding double-standard bill, time too short to get expression from members of our association. Personally not in favor of it, and several others of same opinion. Some fear bill may be an opening for oleomargarine interests. Is there not some way to have hearing postponed? Can you furnish us copy of bill?

L. E. BEST.

This is from Mr. Borman, of the Beatrice Creamery Co. [Reading:]

CHICAGO, ILL., June 20, 1922.

J. J. FARRELL,

*National Dairy Products Committee, Washington, D. C.:*

Marple out of city. Sure his views concur with ours, already expressed to you on advisability postponement giving industry opportunity pull itself together.

T. A. BORMAN.

The CHAIRMAN. Just a moment. Mr. Thompson desires to make a request.

Mr. THOMPSON. I have to leave, and when this bill comes up I want to be reported as being for the 80 per cent single standard.

The CHAIRMAN. Is there any objection to Mr. Thompson having his vote recorded in his absence? Without objection it will be so ordered.

Mr. FARRELL. I have here another telegram from Mr. Borman. [Reading:]

CHICAGO, ILL., June 20, 1922.

J. J. FARRELL,

*Secretary National Dairy Products Committee,  
Washington, D. C.:*

Our first desire to have hearing postponed order give opportunity to decide regarding its merits whether we want single or double standard. If postponement means delay until next fall, would prefer not act too hastily in matter.'

T. A. BORMAN.

Mr. ASWELL. Mr. Farrell, whom do you represent?

Mr. FARRELL. Manufacturers.

Mr. ASWELL. Who furnishes the money for all this propaganda? Is there a fund raised?

Mr. FARRELL. Yes.

Mr. ASWELL. Who furnishes the money for this propaganda?

Mr. FARRELL. Our association will pay for these telegrams. I certainly can not pay for them. And there are only about 12.

The CHAIRMAN. If you have any further telegrams just tell what they are, and incorporate them in the record.

Mr. FARRELL. I have read all those that I wish to put in, Mr. Chairman.

Mr. McLAUGHLIN of Michigan. Do any of these companies make or deal in oleomargarine?

Mr. FARRELL. None belonging to our association; no, sir.

The CHAIRMAN. Is that all, Mr. Farrell?

Mr. FARRELL. That is all, except, Mr. Chairman, I wish to say in order to express the views of our members, that we would prefer the modification of this regulation, and if there is to be a law we prefer the single-fat standard.

The CHAIRMAN. Now, what is your suggestion as to dividing it into two departments, one or two?

Mr. FARRELL. I should suggest leaving it as it is. You know we are in two departments, and that is the problem of putting us up against two hard and fast standards here. We will be in both departments by an act of Congress.

We are in two departments now, and there are regulations, and they have at least some humanity in them, so that if these regulations are unfair and they try to enforce them because moisture has come in inadvertently, they can see the point and penalize accordingly, but if you enact this into a law it means that the Internal Revenue Department has the word of Congress, and there is nothing to follow but the law.

The CHAIRMAN. Do you want the law applied to the two departments or only one?

Mr. FARRELL. Well, in my opinion a single 80 per cent fat standard does not interfere with the adulterated butter act in one way or the other.

The CHAIRMAN. I am not so sure about that.

Mr. FARRELL. You are defining butter, and the butter act of 1902 defines butter, and the Treasury Department has made a regulation defining what is the normal quantity of moisture in butter.

The CHAIRMAN. The question has been raised, and this has to be looked into very carefully. But what is your desire, and what do you suggest? Shall it apply to the two departments or only to one, as suggested in this bill?

Mr. FARRELL. I should say if we are going to enact a law to have this apply to the single 80 per cent fat standard, and that would govern the Bureau of Chemistry, and if there are many people that want that 16 per cent moisture regulation, let it be there, and if they put more moisture in intentionally they will suffer the consequences.

The CHAIRMAN. You speak about the Department of Agriculture. What about the Treasury Department? Do you want it to apply to the two departments? The same standard applying in the two departments?

Mr. FARRELL. It will so far as the fat content is concerned, as I understand.

The CHAIRMAN. Well, that is all.

Mr. FARRELL. Yes, certainly. I do not see how it can do otherwise.

The CHAIRMAN. All right. Thank you very much.

(Witness excused.)

**STATEMENT OF MR. G. L. MCKAY, SECRETARY AMERICAN ASSOCIATION OF CREAMERY BUTTER MANUFACTURERS, CHICAGO, ILL.**

The CHAIRMAN. Mr. McKay, will you please state for the record whom you represent?

Mr. MCKAY. Mr. Chairman, I am secretary of the American Association of Creamery Butter Manufacturers, an organization that manufactures nearly half of the creamery butter produced in this country. I was formerly professor of dairying at the Iowa State College for 17 years, so I am somewhat familiar with the butter business.

At the present time, as you gentlemen know, we have a ruling requiring 82½ per cent of butter fat. Years ago the creamery men opposed that ruling and it has never been enforced since that time. Some of the States, however, have adopted the rulings of the Federal department and have enacted them into law.

In the state of Massachusetts at the present time they are threatening to enforce this law. If the statute is changed and if you fix the requirement at 80 per cent the Massachusetts law will automatically go back to 80 per cent.

Mr. ANSWELL. Why is that?

Mr. MCKAY. Because they have adopted the Federal rulings as their standard. I am informed that as soon as the law is changed their State law will be changed. They opposed the 82½ per cent when it came in, but they believed in the theory that the way to change a bad law was to enforce it.

Mr. TEN EYCK. Of course this will not prevent them from passing a new law fixing the standard at 82½ per cent?

Mr. MCKAY. No, it will not.

Mr. TEN EYCK. But you believe they will acquiesce in the Federal law and adopt it?

Mr. MCKAY. Yes, and that is true of a number of States. I believe Congressman Haugen stated that Wisconsin had 82½ per cent. Indiana has the same. Illinois has the same. Oklahoma has the same. Those laws were enacted to bring the State requirements in line with the Federal regulations, but in no case have they ever been enforced.

Now, all the dairy associations of the country have gone on record at their annual meetings in favor of 80 per cent. The breeding associations of the country have all gone on record in favor of it. I think probably I have made

more chemical analyses of butter than any other man in this country. I have two chemists continually analyzing butter, and have had for years, and I am quite familiar with the composition of butter. If the law changing the standard is going to apply only to the Bureau of Chemistry and you are going to leave the internal revenue regulation at 16 per cent, then I would favor the single standard. Personally I have always been in favor of the double standard myself, on the theory that most of the creameries can comply with it. The farmer can, and probably ought to, be left out of this question altogether.

The CHAIRMAN. Then, Doctor, let me ask you this. Do you know of any State that enforces 82½ per cent, or anything above 80 per cent?

Mr. MCKAY. There is no State enforcing anything above 80 per cent, because it is impracticable to do so.

The CHAIRMAN. Do you know of any State that has a lower standard than 80 per cent?

Mr. MCKAY. No; I do not.

The CHAIRMAN. Then, practically, 80 per cent is the universal standard in this country?

Mr. MCKAY. Yes; and it is the universal standard in almost all civilized countries. Germany at the present time has a double standard; that is, they have 80 per cent for salted butter and 82½ per cent for unsalted butter. Canada requires 80 per cent fat. The English law is based on practically 80 per cent, and they have a moisture requirement. Most of the European countries have moisture requirements. I have twice had the opportunity of visiting those countries and inspecting the conditions there.

Mr. VOIGT. What are the regulations in England and Canada as to moisture?

Mr. MCKAY. Straight 16 per cent. That means practically 80 per cent fat, 2½ per cent salt, and 1 per cent curd.

Mr. VOIGT. Does the unsalted butter in the trade sell for more than the salted butter?

Mr. MCKAY. Yes; it sells for more on account of more fat being present.

Mr. VOIGT. And, of course, a man who makes unsalted butter can afford to put in a little more fat, because he gets a higher price for it?

Mr. MCKAY. Yes.

Mr. VOIGT. You said awhile ago that you had analyzed a good many samples of butter. What is the fact as to the water content of butter that is made on the farms?

Mr. MCKAY. I have not had very much experience with farm butter. Farm butter will vary from 10 per cent to probably 18 per cent. There may be some that will go higher. That will depend upon the conditions under which the farmer churns his butter. If he churns at a high temperature there is a tendency to get in more moisture.

Mr. TEN EYCK. In other words, in the summer time, when there is no ice and the butter is hot, it is very difficult to get it down to 16 per cent?

Mr. MCKAY. There would be a tendency that way; yes.

Mr. VOIGT. As a general rule, is not the water content of butter made on the farm lower than that made in the creamery?

Mr. MCKAY. Probably the average would be lower, yes. The creamery men have systematized their methods of making butter.

Mr. TEN EYCK. Let me ask you a question right there. This is not a move, is it, on the part of the manufacturers of butter to cut out the competition of the farm in any way?

Mr. MCKAY. No, sir.

Mr. TEN EYCK. The reason I asked that question is this: When big industries start in and get themselves into such a position that they know just what they are doing, and there is a law passed to require just what they are capable of performing, that results in a hardship upon the individual.

For instance, take the situation in New York State with relation to cider. We have a law there that requires a certain amount of acetic acid in the cider. That means that you have to hold the cider for a certain length of time to get the acetic acid. In the meantime the acetic acid turns into alcohol, and along comes the Federal law and says that you must not have that alcohol in there, and the man finds that he can not sell his cider because the State law requires the acetic acid and the Federal law forbids the alcohol. So it is the cider mills that supply the cider, and it has prevented the individual farmer from making cider. I do not want to see the butter industry put into the same position.

The CHAIRMAN. Has it ever been suggested that the farmers should be exempted from the law?

Mr. MCKAY. I would have no objection to the exemption of the farmer.  
The CHAIRMAN. But has it ever been suggested that they should be?

Mr. MCKAY. It has not been to me; no.

The CHAIRMAN. Have you ever heard of a complaint from a farmer on that score?

Mr. MCKAY. I have never heard of any complaint.

Mr. ASWELL. Probably the farmers have not heard of this bill. Nobody heard of it until three days ago.

The CHAIRMAN. There are two classes of people to be considered, the consumer as well as the producer. If the farmer were exempted, would you think he would put in 20 or 30 per cent of water. If they did they could not sell it.

Mr. ASWELL. Doctor, did you say that all of the civilized countries of the world, or practically all of them, have laws regulating moisture content?

Mr. MCKAY. They have laws regulating the moisture, and some of them are very high.

Mr. ASWELL. Well, that is pretty good evidence, is it not, that we ought to put it in here?

Mr. MCKAY. The reason they have these laws, I think, is that it is much easier to determine the amount of moisture in butter, but when you come to analyze for fat you have the moisture, the casein, and the salt to remove to get at the fat content. I think probably that was the reason that England adopted the 16 per cent. Denmark has 16 per cent for export butter and 20 per cent for home butter. They do that because their butter practically all goes to the English markets.

You asked me a question, Mr. Chairman, some time ago about the position of the consumer in this matter. I think that a requirement of 80 per cent fat will give the consumer a more regular standard of butter. Some people might want to put in 77, 78, or 79 per cent of fat, but if everybody were compelled to put in 80 per cent it would bring about fairer competition among the producers.

Mr. ASWELL. Are they not compelled to do that now under the regulations?

Mr. MCKAY. I would say not.

Mr. ASWELL. They are not even required to have 80 per cent?

Mr. MCKAY. There have been a few lots seized. There have been some cases where there has been a little butter seized, but as a rule they are not held to that.

Mr. ASWELL. Not as much as 80 per cent?

Mr. MCKAY. Not as much as 80 per cent.

Mr. ASWELL. Well, the regulation requires 82½ per cent, but we do not bring it up to 80.

Mr. MCKAY. Of course the ruling of the department is not the law, and there has been some question whether the ruling would stand in the courts, so they have not enforced that.

Mr. TEN EYCK. If you have no moisture-content ruling but have a law requiring 80 per cent of butter fat, how much water can you get into it? What would be the maximum amount of water that you could put into the butter, with an 80 per cent requirement of butter fat?

Mr. MCKAY. In salted butter I would say that 16 per cent would be the limit, but in unsalted butter you could put in 18 or 18½. You see normally in butter there is about 1 per cent casein and curd, and you can figure easily what the difference would be.

The problem here is that in these States that have adopted the Federal rulings they have a new commissioner every once in a while. The new commissioner starts out with the idea that he is going to enforce this law, and it runs along for a time until they find it impracticable.

The CHAIRMAN. Just a moment, Mr. McKay. Mr. McLaughlin desires to make a request of the committee.

Mr. McLAUGHLIN of Michigan. I am obliged to leave at this time, and I simply desire to ask that I be recorded as present for the purpose of making a quorum and that I be permitted to leave my vote with the chairman as favoring the bill and also favoring the 80 per cent standard.

The CHAIRMAN. Is there any objection? If not, it is so ordered.

Mr. MCKAY. I have no further remarks, Mr. Chairman, unless there are some questions.

The CHAIRMAN. Did you suggest a single standard?

Mr. MCKAY. I suggested the single standard, provided the Bureau of Internal Revenue is going to be left as it is. Personally I would very much dislike to see a high percentage of moisture in American butter.

The CHAIRMAN. Do you suggest applying the standard to the two departments?

Mr. MCKAY. It is perfectly satisfactory to me to apply it to the two departments.

The CHAIRMAN. Have you any preference?

Mr. MCKAY. I would leave the fat standard to the Bureau of Chemistry, making that a regulation, so that they can apply it in the States.

The CHAIRMAN. Would you also apply it to the Bureau of Internal Revenue?

Mr. MCKAY. I would leave the Bureau of Internal Revenue as it is if you are not going to put the double standard in here.

Mr. ASWELL. But personally you are in favor of a double standard?

Mr. MCKAY. Yes.

The CHAIRMAN. I have taken the matter up with the Treasury Department, and they desire to be included.

Mr. MCKAY. I am speaking only for myself in this matter, simply stating my own personal views.

The CHAIRMAN. Mr. McKay, request has been made for a hearing by parties who desire to appear before the committee. Do you think it is necessary to delay proceedings in this matter for that purpose?

Mr. MCKAY. Well, the same request that was made in the telegram which Mr. Farrell read to you has been made to me by two creameries.

The CHAIRMAN. The situation is this: You have secured 30 days stay in Massachusetts?

Mr. MCKAY. Yes.

The CHAIRMAN. When will that time be up?

Mr. MCKAY. It will be up sometime about the latter part of this month.

The CHAIRMAN. So that after that time you will have to overcome that embarrassment that exists by reason of that conflict.

Mr. MCKAY. I made another special appeal before writing to you trying to get five months, or six months.

Mr. ASWELL. You remarked a while ago that occasionally a new commissioner would start in fourflushing, and so on. That is true. Now, is it not likely that Massachusetts would do the same thing and would fall into line?

Mr. MCKAY. I do not think they would. The commissioner there is opposed to this law. He says that as they forced the law on them he wants to fight it out to the bitter end.

The CHAIRMAN. And then they will repeal it themselves?

Mr. MCKAY. Yes; they will in time. But, in the meantime the creamery man in the West ships his butter there, and the butter is seized, and he has to engage counsel.

The CHAIRMAN. The people who ship butter there will be embarrassed?

Mr. MCKAY. Yes. You might ship butter to New York, and it might be transshipped to the other States.

The CHAIRMAN. Mr. Gray, we will hear you now.

#### STATEMENT OF MR. C. E. GRAY, PRESIDENT CALIFORNIA CENTRAL CREAMERIES, SAN FRANCISCO, CALIF.; ALSO PRESIDENT CALIFORNIA DAIRY COUNCIL.

Mr. GRAY. Mr. Chairman, I should like to go on record as in favor of the double standard, and especially in favor of the 16 per cent moisture content. As I see it, we are confronted with two regulations in two different departments, the Bureau of Chemistry or the Department of Agriculture, and the Bureau of Internal Revenue of the Treasury Department. The enforcement which we have thus far had of butter standards has been very largely confined to that under the Internal Revenue Bureau. The adulterated butter act defines adulterated butter thus:

"Any butter in the manufacture or manipulation of which any process or material is used with the intent to or effect of causing the absorption of abnormal quantities of water, milk, or cream."

Now, on account of that language it has been necessary for the Secretary of the Treasury, or the Secretary of Agriculture, to make a ruling as to what an abnormal quantity of water, milk, or cream is, and that rule has been 16 per cent. Whenever a case comes into court it is necessary for the Treasury Department to introduce expert testimony to prove that 16 per cent is abnormal, and therefore the enforcement of this law has been a difficult and expensive thing for the Treasury Department.

It is my judgment that this act has been a very fortunate thing for the dairy industry. It is a fact that selling water instead of butter fat is a profitable business so long as you can get away with it. Therefore we are confronted with the

situation of having some people engaged in the manufacture of butter who disregard the best interests of the butter industry and sell water for butter, or would sell water for butter so far as it would be possible to do so.

The composition of butter is a controllable thing. The manufacturers of butter can control its composition. They can put water in or they can leave it out, and water can be put in in large percentages. That being true and because it is profitable to sell water instead of butter fat, there is a tendency to get as near the limit as possible, and in getting as near the limit as possible there is always the chance of somebody going beyond the limit. Therefore we have violations of the law.

Mr. ASWELL. They all come up to the limit, do they not, in water?

Mr. GRAY. The tendency naturally is for them to do so.

Mr. ASWELL. And it is better business to come up to the limit?

Mr. GRAY. As a commercial proposition, that is necessary.

Mr. ASWELL. Not necessary, but it is a good quality?

Mr. GRAY. Yes; good business. But in meeting competition it may become necessary, for this reason: As one gentleman has already said to you, the amount of water can not be determined by the appearance of the butter. Water may be incorporated without injuring the appearance of the product. It is my judgment, however, that incorporating large quantities of water does injure the quality of the butter besides reducing its food value.

As I understand it, the Internal Revenue Bureau has construed this act as applying to those engaged in the manufacture, and they have not taken the farmer as being a manufacturer of butter. For that reason, as has been stated, the Internal Revenue Bureau has not concerned itself with farm-made butter, because the farmer is not regarded as a manufacturer.

It is my judgment that it would be most helpful to the industry if butter were defined as a product containing not more than 16 per cent of water. That would then clear up this situation with the Internal Revenue Bureau and make it unnecessary for them to bring in expert testimony in every case. The other conditions would be exactly as they are now, as I see it.

Mr. TEN EYCK. If a farmer should make a certain amount of butter, with 16 per cent water, coming within the limits of this bill, and a certain percentage of casein and a certain percentage of salt and 80 per cent of butter fat, and put that away in a crock, at the end of three or four months in cold storage would that percentage of water change in relation to the percentage of butter fat?

Mr. GRAY. It would only be a very slight change. There might be a slight evaporation, but it would be very little, probably in tenths of a per cent.

Mr. TEN EYCK. Is it possible that it would increase any?

Mr. GRAY. No; I would say it would be impossible for it to increase. My judgment is that a definition incorporating the 16 per cent feature is very desirable from the standpoint which I have mentioned, and also because of the fact that other countries have the 16 per cent regulation.

The CHAIRMAN. But when you require 80 per cent fat the water will be 16 per cent, will it not?

Mr. GRAY. Not necessarily.

The CHAIRMAN. Unless it is unsalted butter?

Mr. GRAY. What we term the curd content or casein content of butter is around 1 per cent in well-made butter.

Mr. ASWELL. How much butter do we export? Do you know?

Mr. GRAY. At the present time, practically none. The amount coming in offsets that which goes out. Some goes out and some comes in.

Mr. ASWELL. Would the fact that some of the countries to which we export have the 16 per cent limitation be embarrassing? If we, not having the 16 per cent limitation, export butter to England, for instance, would not that be embarrassing to our exporters?

Mr. GRAY. It might be. If we were exporting to England, of course, we would have to comply with the 16 per cent limitation.

Mr. ASWELL. And the same thing would be true of Canada, would it not?

Mr. GRAY. Yes.

Mr. TEN EYCK. What is the reason that Denmark permits a higher percentage in butter for home consumption?

Mr. FARRELL. The butter is just as good. Eighty-six per cent of milk is water. They sell their surplus to markets that demand 16 per cent.

Mr. ASWELL. That is further evidence that they put in as much water as they care in every case?

Mr. FARRELL. They make the best butter in the world, they claim, except the United States.

Mr. GRAY. The consumer can not judge the amount of water by the appearance of the butter, unfortunately. Therefore the importance of a regulation.

Answering the question as to whether or not the requirement of 80 per cent fat would limit butter to 16 per cent water, it would not. The curd being a very small amount, 1 per cent, we might then have 10 per cent water in unsalted butter, and the water would be decreased as the salt was increased, 2 per cent salt being a light salted butter, 3 per cent being average, and 4 per cent approaching high salted.

Mr. TEN EYCK. In other words, if you had the average amount of salt in butter and the amount of curd that is always in butter, it would practically limit the water to 16 per cent?

Mr. GRAY. Yes; if you had average salting and the usual curd, it would average about that.

However, the practical enforcement of the butter standard has rested with the Internal Revenue Bureau, and if that enforcement should be transferred to the Bureau of Chemistry the situation would be materially changed. All intrastate business would be left in the hands of the State officials. As it is now the whole United States is practically working under one plan, 16 per cent moisture; and in my judgment, while it may be painful to those who go beyond that, even though it might at times be unintentional, the thing on the whole has been most fortunate for the dairy industry. The dairy industry, in my judgment, can profit best by supplying dependable high-grade butter to the consumer.

Mr. TEN EYCK. What is your idea in relation to making this bill apply to the manufacturer? Do you want it to apply to the individual farmer as well?

Mr. GRAY. It is my judgment that it should apply especially to those engaged in the manufacture of butter as a business.

Mr. ASWELL. Does the farmer send out his butter into interstate commerce?

Mr. GRAY. In most cases it enters into interstate commerce, but I feel that if we concern ourselves with those engaged in the manufacture of butter as a business we need not be concerned about farm butter.

Mr. TEN EYCK. The trouble is that a farmer manufactures a little butter and sells it to some individual, and he loses control of that butter and it may get into interstate commerce without his knowing it. If a record is made of it it is traceable back to him, and even though he tried to make the best butter he could, yet, on account of his lack of facilities for testing, and so on, he is liable to get into trouble by unknowingly violating the Federal statute.

Mr. GRAY. That might be the case, and that would apply equally whether the standard be on butter fat or on water.

Mr. TEN EYCK. Yes.

Mr. GRAY. In farm butter, where the effort is made to produce butter of good quality, it is a very rare thing to have 16 per cent water, and it is a rare thing to have less than 80 per cent butter fat.

Mr. TEN EYCK. I agree with you there.

The CHAIRMAN. Thank you very much. Mr. Silver, did you want to be heard?

Mr. SILVER. No.

Mr. ASWELL. Is there anybody here opposed to this bill?

The CHAIRMAN. Not that I know of. I will find out if there are any.

#### STATEMENT OF MR. A. M. LOOMIS, WASHINGTON, D. C., REPRESENTING NATIONAL DAIRY UNION AND NATIONAL GRANGE.

Mr. LOOMIS. Mr. Chairman, there has been one matter referred to here about which I feel that I ought to say just a word, because, as you gentlemen know, so far as I am here officially at all I am connected with the National Grange as well as the National Dairy Union, and the National Grange is one of the big organizations of farmers of this country.

Now, I want to say very frankly to the members of this committee that I do not think the farmers should be excepted from this or any other bill that is right. The thing we are trying to get here and the thing about which I am most concerned is to have the consumers of dairy products of the United States understand that the dairy products which are being furnished for them are the best dairy products which can be made. I believe that is the greatest benefit which can come to the dairy industry from this bill.

There are those people, in and out of Congress, who do try and have tried to lead the public to believe that much of the butter that is produced in this country is not good butter, and the claim is made that much farm-made butter is not good butter. For that reason particularly I do not want to see any emphasis placed on anything, either in the discussion here or in any action which this committee may take, which would make it appear that any part of the butter makers of the United States were being exempted from the requirement of putting on the market the best butter.

Mr. ASWELL. How do you stand with reference to the single and double standards?

Mr. LOOMIS. Well, I have expressed myself as far as I could.

Mr. ASWELL. But you did not make your position very strong.

Mr. LOOMIS. I know that, because I am not a practical butter man, Congressman Aswell. My concern has been over the possible weakening of the internal revenue statute, the adulterated butter law, which has been referred to here, if the 16 per cent maximum is not mentioned in this act. I have not had time to go into that matter to see whether or not it will have that effect. If it will weaken the enforcement of the 16 per cent rule by the Internal Revenue Bureau, then I certainly should say they ought not to be left out of this bill. If it will leave the internal revenue statute and its enforcement where it is now, then I should have no objection.

Mr. ASWELL. It has been testified here that it is not being enforced now.

Mr. LOOMIS. The only regulation which they are enforcing is the 16 per cent regulation.

Mr. VOIGT. Is it a hardship upon any manufacturer of butter to limit him to 16 per cent moisture?

Mr. LOOMIS. The large preponderance of testimony from the butter manufacturers is that it is not. But I am not a practical butter man.

Mr. TEN EYCK. Then you are not in favor of the insertion in this bill of the clause that this shall apply to manufacturers of butter who are manufacturing butter as a business?

Mr. LOOMIS. If you put the word "only" in there I would oppose that.

Mr. TEN EYCK. I merely wanted to get your idea.

Mr. LOOMIS. That is my idea. I believe that the farmers of this country should stand on exactly the same basis as everybody else that manufactures butter.

Mr. ASWELL. That is a very sensible statement, in my opinion.

Mr. LOOMIS. And I believe the Grange will stand on that statement.

Mr. TEN EYCK. Let me ask you this question. We know that a man who is in the manufacture of butter as a business has entire control over his butter. He can sell it in the State or he can put it into interstate commerce, and therefore he can change the standard of his butter, because he can control the shipment of that butter and prevent it from getting into interstate commerce. Now, when the individual farmer sells his butter to a dealer the dealer can make a record of that butter and put it into interstate commerce, and when he is caught with that butter it goes back again to the farmer and the farmer pays the penalty.

Mr. LOOMIS. I assume that is true, Congressman. There are two or three other things to be said about it—

The CHAIRMAN (interposing). Is not that also true as to the cooperative creameries? They are the farmers?

Mr. TEN EYCK. Yes; but as a cooperative organization and as a business institution they can control where that butter will be consumed. They will sell it within the State and come within the State law as regards the amount of water and the amount of butter fat, and they will come in competition with the farmer who is afraid to go to the limit in relation to cheapening his butter for the reason that he loses control over his butter.

Mr. LOOMIS. The adulterated butter law applies to all butter sold, whether in interstate commerce or not. That is the chief thing to be considered—in answer to that.

Mr. TEN EYCK. We can not pass a law here for State business, Mr. Loomis. The only law that we can pass at this time to affect butter in any way is a law with reference to interstate commerce.

Mr. VOIGT. I think you are wrong about that.

Mr. TEN EYCK. If I am wrong I want to know it.

Mr. VOIGT. The law that is now being enforced by the Internal Revenue Bureau is a taxation measure which holds good all over the United States,

Mr. TEN EYCK. That is what I want to bring out, whether or not the farmer is protected by this.

The CHAIRMAN. I think there is a good deal in what Mr. Loomis has said. I think we are all interested in maintaining quality.

Mr. TEN EYCK. It is far from my purpose to put the farmer in an awkward position, or to give him unreasonable protection. At the same time, I do know that he has been the man that has suffered from these laws where they have been enacted, on account of his inability to control his product through the consumer. That is the great difficulty of the farming industry today, that the farmer can not carry his product through, under the market conditions, to the consumer, and I do not want him to get caught by a bill like this that works a hardship on the actual producer of butter. Because he is the basic producer in the long run; he is the fellow that produces the milk as well as the butter.

Mr. FARRELL. Mr. Chairman, with the 80 per cent fat standard, it does not alter that adulterated butter act one iota. You are amending the act of 1886, defining butter, and reaffirmed in 1902. The adulterated butter law as applied to butter, under the moisture regulation, exempts the farmers' product when it is identified as such.

The CHAIRMAN. Let me make this suggestion. The department has spent two days in drafting this law. Since then I have had the drafting service of the House work on it, but they have not exactly come to an understanding as to what the amendment should be. If the committee decides to include the two departments, the drafting service, in cooperation with those departments, will draft proper amendments, so that there will be no question about what laws are amended or how they shall apply.

Mr. TEN EYCK. I want to bring this to the attention of the committee. If it was thought advisable by the Treasury Department to exempt the farmer before, why do we want to go on record to-day by putting him in now. If there was a good wholesome reason why he was exempted before, does not that same reason exist to-day?

The CHAIRMAN. No law that has ever been passed has exempted the farmers specifically? The law, however, applies only to those whose chief business is manufacturing butter and by regulation; it is not applied to the individual farmer.

Mr. TEN EYCK. But there is a rule in the Treasury Department, as I understand, that exempts the individual farmer to-day from the rulings of that department. What information have we received that that was unwise and that we ought to overrule it now? I would like to ask Mr. Loomis that question.

Mr. LOOMIS. I would like to offer an observation in answer to it. There is a very great distinction between an administrative department of the Government dealing with the practical problems of enforcing the law and paying the costs of enforcement and our adopting something which is established as a national policy. I can conceive that the enforcement of the 16 per cent ruling on every crock of farmers' butter which comes into a retail store in the United States would cost so many times more than it could possibly produce that the Treasury Department would find it very expensive.

Mr. ASWELL. Does the Bureau of Internal Revenue make that exemption?

Mr. LOOMIS. I have not the slightest idea.

Mr. GRAY. Mr. Chairman, it is my understanding that that attitude has been taken by the Treasury Department from the language of the act, which, as I remember it, is to the effect that it applies to those engaged in the manufacture of adulterated butter as a business. The view has been taken that farmers are not in the manufacture of butter as a business.

Mr. ASWELL. Is there any public document specifying that farmers are exempted?

Mr. GRAY. I think not. That has simply been the attitude taken by the Treasury Department. The Treasury Department has some precedent for that, that when a concern is engaged in a particular thing as a business a certain percentage of their entire capital or time must be taken up by that business. Otherwise it is rather a secondary matter, as the making of most farm butter is. I think they have published nothing on that, but I understand that is their attitude. They have dealt only with those who were manufacturers. And I may say that their difficulties have been great enough in dealing with the manufacturers, because on account of the wording of the act, on account of the use of the term "abnormal water content." It has been necessary to bring in experts to establish what "abnormal" meant.

Mr. ASWELL. Just there. If that were enacted into law it must of necessity be enforced by the department. Would they not still have that same attitude?

Mr. GRAY. If butter were defined as a product containing not more than 16 per cent of water, if that is normal butter, then obviously butter containing abnormal quantities of water must be that butter which is over 16 per cent.

Mr. ASWELL. Yes; but this amendment would not change the language you just quoted.

Mr. GRAY. No. But in my judgment it could be tied on to their understanding by the Internal Revenue Bureau so as to save them the trouble of establishing what "abnormal" is.

Mr. ASWELL. Would they not still exempt the farmer as they do now?

Mr. GRAY. I think it would not have any bearing at all. It would not change the rest of the act at all. It would simply obviate the necessity of establishing in every case what "abnormal" is; and that has been so expensive that the Internal Revenue Bureau has been rather discouraged in the enforcement of this regulation, which in my judgment is one of the most fortunate things the butter industry has had. It is my judgment that on account of this it is maintaining a standard of quality which we could not have had without it.

It is my judgment that we need, and need very badly, a standard for butter, because butter is a manufactured article. It might be well to bear in mind the distinction between wheat and butter, that wheat is not a manufactured article, while butter is. Wheat is not subject to manufacturing variations as butter is.

Mr. TEN EYCK. But butter can be controlled, perhaps, a little better than wheat.

Mr. GRAY. Butter can be controlled. The composition of butter is a controllable proposition.

Mr. FARRELL. As Mr. Gray is a manufacturer and as I am representing the manufacturers, I wish to take exceptions to the statement that he made here, because the manufacturers differ so largely on it. He claims that if you embody the double standard in this legislation it will, of course, legalize the 10 per cent tax on butter that is inadvertently permitted to contain 16 per cent of moisture or a fraction over.

Mr. ASWELL. I do not think he claimed that.

Mr. FARRELL. Yes; he just made that statement, that it would sustain their attitude.

Mr. ASWELL. Let me interrupt you. I understood him to say it sustained the attitude of the Internal Revenue Bureau with reference to exempting the farmer. That is what he was talking about.

Mr. FARRELL. No; he was talking about the moisture content.

Mr. ASWELL. Well, on the question of moisture?

Mr. FARRELL. When you adopt the double standard here you do not exempt the farmer, but there is a regulation by the Treasury Department stating that when farm butter, known to be such—

The CHAIRMAN. Let me read the language:

"Every person who engages in the production of processed or renovated butter or adulterated butter as a business shall be considered to be a manufacturer thereof."

Now, we do not amend that.

Mr. ASWELL. Not at all. It stands just the same. That is the point Mr. Gray makes.

Mr. VOIGT. Then if the bill that is before the committee becomes a law, Mr. Ten Eyck's farmer would practically be exempted, as he is now.

Mr. TEN EYCK. That is all I want to have understood, because I believe that is the way it should be.

Mr. FARRELL. Mr. Voigt, may I ask you a question? Is it not your understanding that if the single standard is adopted the farmer will be exempted?

Mr. VOIGT. My understanding of this proposition is that the law as it now stands refers to a man who makes the manufacture of butter his business. The word "manufacturer" has a technical meaning in that law. For instance, a man who makes a little home brew at home would not under a similar law be considered a manufacturer of beer. This language means that he must be a man who has a plant, who has some capital invested, whose chief occupation is the manufacture of butter. A man who runs a farm and makes a little butter as a side line would not come under this law, and if we let this language stand my opinion is that whether we adopt the single standard or the double standard he would not be affected by the proposed act.

Mr. FARRELL. No; because the regulation of the department now exempts them  
Mr. VOIGT. And the department could not make a different regulation under  
this law as it reads.

Mr. REID (American Farm Bureau Federation). Mr. Chairman, I would like  
to say a further word. If the farmers are to come under this bill specifically,  
I believe they should be exempted as they are now. I also believe there ought  
to be a tolerance in there somewhere, so that a farmer who is not equipped to  
test his butter from the standpoint of butterfat or moisture content would have  
a little leeway and would not be haled into court.

The CHAIRMAN. At present they have a tolerance of  $2\frac{1}{2}$  per cent. The rule is  
 $82\frac{1}{2}$  per cent.

Mr. TEN EYCK. What Mr. Reid means is that if this bill is enacted into law the  
farmer should have a tolerance.

Mr. REID. Yes.

Mr. ASWELL. But if the farmer is exempted you do not care about the toler-  
ance, do you?

Mr. REID. No; we do not care about it.

Mr. ASWELL. Well, he is exempted, according to the statement just made.

The CHAIRMAN. There is no suggestion here to change that part of the statute.

Mr. FARRELL. You mean the bill as originally drawn, with the double standard,  
the fat requirements and the moisture clause in it.

Mr. ASWELL. That does not affect the original bill.

Mr. FARRELL. Yes. The bill we are considering here has two clauses relating  
to fat and moisture.

Mr. ASWELL. That is not affected.

Mr. CLAGUE. Certainly; it absolutely changes it. It makes the law 16 per cent.

Mr. VOIGT. Yes; but this only applies to the men whose business is the manu-  
facture of butter.

Mr. CLAGUE. That, in my opinion, is just where you are wrong. This defines  
what butter is.

Mr. VOIGT. But, pardon me, the definition holds good only for the man who is  
mentioned in the law, and that is the manufacturer of butter.

Mr. ASWELL. And this does not change that.

Mr. TEN EYCK. Well, I am going to hold the legal membership of this com-  
mittee to account if they make a mistake. I am going on their advice.

The CHAIRMAN. Is there anybody that desires to be heard in opposition to  
the bill? If not, we will consider the hearings closed, and the committee will  
take the matter up.

Mr. J. S. ABBOTT (Institute of Margarine Manufacturers). Mr. Chairman,  
inasmuch as I asked, on behalf of the organization I represent, that the hear-  
ings be extended until we could hear what they wished in regard to the bill,  
I think it would be respectful to the committee for me to say a word. I have  
been unable to learn whether the oleomargarine people are interested in this  
bill or not.

The CHAIRMAN. It does not make any difference whether they are, because  
we are not dealing with oleomargarine. The bill has nothing to do with oleo-  
margarine, and we are not going to discuss that proposition.

Mr. ASWELL. Mr. Chairman, I am a member of this committee, and I think the  
gentleman should have the courtesy of being permitted to make his statement.  
He is not discussing oleomargarine.

The CHAIRMAN. He must confine himself to the subject matter.

Mr. ASWELL. He wants to make an explanation of his statement.

The CHAIRMAN. But the witnesses must confine themselves to the subject  
before the committee.

Mr. ASWELL. He wants to make a respectful statement. And I want to pro-  
test against the chairman deciding himself what this committee shall hear  
discussed.

The CHAIRMAN. The chairman will undertake to enforce the rule; that is all.

Mr. ABBOTT. Mr. Chairman, the organization that I represent makes something  
like 100,000,000 pounds of butter. I am not here, however, to discuss that. I  
simply want to say that I have not heard from our organization, and I do not  
know what their opinion is. I do not know whether they want to offer additional  
amendments to this law that you are amending, and I do not know what their  
attitude will be toward this standard.

I was asked my individual opinion about this bill the other day, and gave it  
in harmony with my previous opinion on the subject, as expressed in the stand-

ard adopted by the United States Department of Agriculture, or rather by the Secretary of Agriculture, in 1919.

The questions that were asked me in that connection were of a kind to give the impression, I think, that my individual opinion was connected up with the opinion of the industry I represent. I want to make it clear here that that is incorrect, because I do not know what the opinion of the industry I represent is. The opinion I gave you was the opinion arrived at by nine men constituting the joint committee on definitions and standards, three of whom represented the United States Department of Agriculture, three of whom represented the Association of Official Agricultural Chemists of the various States of the United States, and three of whom represented the Association of American Food and Drug officials.

**Mr. MCKAY.** Were those men all chemists, or were they experienced butter men?

**Mr. ABBOTT.** They were chemists, as I said the other day when you were not here. We were authorized and directed to consider this standard for butter that was promulgated in 1906 by the Secretary of Agriculture, acting under an authorization of the Congress of the United States. We reaffirmed the decision of the Secretary of Agriculture at that time, and the Secretary of Agriculture reaffirmed and reannounced the standard in 1919 that had been previously announced by the Secretary in 1906.

**Mr. VOIGT.** Will you permit me to interrupt you for a moment? Mr. Chairman, I am obliged to leave. I am in favor of this double standard bill. The chairman has suggested that perhaps the drafting service of the House will improve the language of the bill. I think the motion I am about to make will meet the approval of the members and the chairman.

I move that the hearings on this bill be closed to-day, and that the chairman request the drafting service to look over the bill carefully and suggest any amendments in the wording, and that when the committee adjourns to-day it will adjourn until to-morrow morning at 10 o'clock for the consideration of the bill.

(The motion was duly seconded.)

**The CHAIRMAN.** It is for the committee to determine whether you want to consider it or not. I have no opinion whatever. I introduced the bill as it came to me from the Department of Agriculture. If the committee wants to take it up and overcome the difficulties, I assume action will have to be taken immediately. Otherwise it can just as well go over until some future session. I think the committee might properly determine whether it wants to consider that now, and if it is to be taken up for consideration in the House I presume it will have to be reported immediately. I take it that after this week we will probably not have a quorum in the House. It is for the committee to determine whether it wants to dispose of the matter now so as to overcome the difficulty over here in Massachusetts.

**Mr. VOIGT.** If we put it off until to-morrow morning that will give some of us a chance to telegraph to our dairy and food commissioners and find out what they think about it.

**Mr. TEN EYCK.** I think that is a good idea.

(The motion, having been duly seconded, was unanimously agreed to.)

**Mr. ABBOTT.** Some questions were asked in regard to the merits of the standard. I had not gone into that at all, but out of courtesy to those who asked me the questions I answered to the best of my ability. I want to say in this connection that the standard of 82½ per cent fat, which our committee adopted, was adopted by these nine men on the basis of the information before us.

It is true that some of the foreign countries have a moisture standard of 16 per cent. If you will take the trouble to look up the information in the department records, you will find that while it is true they have those standards it is also true that they do not make their butter right up to the 16 per cent moisture standard.

**The CHAIRMAN.** How much does it fall below?

**Mr. ABBOTT.** They make a good butter and sell what they consider a good butter, and their moisture generally runs from 13½ to 14 or 15, and of course occasionally as high as 16 per cent. But in general the information before us was to the effect that they were usually around. I would say 14 per cent.

**Mr. ASWELL.** Are you for this bill or opposed to it?

**Mr. ABBOTT.** Just a minute. Pardon me if I continue just a little longer. My understanding is—and if I am not correct on that there are gentlemen

here who can correct me—at the time we had this bill under consideration they wanted a moisture standard of 16 per cent, and my information is they did not ask for any tolerances, or there was nothing said about tolerances.

Now, when we made the 82½ per cent butter fat standard we did it in consciousness of the fact that if that were to continue the standard there would be a tolerance, whether we said anything about a tolerance or not. That is, the courts and the juries would allow a tolerance, as they should do.

The CHAIRMAN. Have the courts passed upon the point as to the tolerance?

Mr. ABBOTT. I do not know. I say they will, as a matter of general justice; they will allow a leeway or tolerance.

Now, mind you, immediately after the announcement of this 82½ per cent standard the United States Department of Agriculture issued a press notice to the effect that their operations would be on the basis of 80 and 16. Is not that correct?

Mr. MCKAY. Not at the beginning; they did later on.

Mr. ABBOTT. How much later?

Mr. MCKAY. Why, sometime later. I remember I telegraphed down here to enter a protest against the standard, and the late Secretary Wilson signed the standards recommended by your committee without knowing what he had signed.

Mr. ABBOTT. I beg your pardon, Mr. McKay. I am talking about Secretary Houston, in 1919, immediately after the action of the committee of which I was a member.

Mr. MCKAY. Oh, yes; I understand.

Mr. ABBOTT. And immediately after we announced the standard the Secretary approved it and announced it. Immediately after that the Department of Agriculture issued a press notice to the effect that their operations in the enforcement of the food and drugs act would be based on an 80 per cent standard. That was a tolerance.

Mr. FARRELL. Have you a copy of that notice?

Mr. ABBOTT. I have not, but I have just dictated a letter to the Bureau of Information of the Department of Agriculture asking for a copy.

Mr. MCKAY. Mr. Chairman, may I interpose right here to explain the situation?

The CHAIRMAN. We would like to have it straightened out.

Mr. MCKAY. The Department of Agriculture has stated verbally to us that they would not seize butter containing 80 per cent or more fat, but they have seized butter that contained more fat. That was because of the way they take samples, taking 1 package out of 10. Then when we go to get that butter released by the authority of the United States district attorney, he says, "The Department of Agriculture has thrown this regulation out here into our lap, and therefore when we release that butter under bond you must reprocess that butter to 82½ per cent." And the department has never asked the United States district attorney to do otherwise, but they would be satisfied with the 80 per cent.

Mr. ABBOTT. Perhaps you and I together could dig up that press notice. I saw it and took it to the Chief of the Bureau of Chemistry in person to inquire about it.

In this connection, as I said in the beginning, I do not want it understood that my personal views, as they were asked for and as I gave them, had anything to do with the views of the organization that I am connected with. One gentleman asks, "Do you advocate this standard of 82½ per cent?" Yes. "Then you left the Department of Agriculture and went to work for the oleomargarine industry?" Yes; I said. Now, there might be a mean interpretation put upon that remark, which I do not think was authorized or warranted. There were eight men on this standards committee that adopted this standard who have not gone to work for the oleomargarine industry.

Another gentleman said that oleomargarine is a fraud, which would carry the implication with it that everybody engaged in the business is engaged in a fraudulent business. I take exception to that, Mr. Chairman and gentlemen of the committee, as unwarranted and untrue.

The CHAIRMAN. Of course, the manufacture of oleomargarine is an honorable business. Nobody has suggested anything else. What we object to is selling oleomargarine as butter. The fraudulent sale of it is what is objected to.

Mr. ABBOTT. We do not do that, Mr. Chairman.

Mr. ASWELL. Before I go I would like to know how you stand on this bill.

Mr. ABBOTT. If I were acting on this bill as a representative of the people, as I was when I was in the Department of Agriculture, I would do exactly what I did then, with the facts before me, unless the facts since then have changed.

Mr. ASWELL. You would stand for 82½ per cent?

Mr. ABBOTT. If I were asked by our industry to make a recommendation on this standard, I would recommend that they do not oppose it. It would suit me, if I were in the business, for the butter standard to be reduced as low as possible.

Now, of course, I am talking a good deal longer than I should, considering that I am giving my personal views all the time. But if I were talking from the standpoint of a creamery butter maker, who can control his product, I would say, do not exempt the farmer. If I were talking from the standpoint of justice I would say, exempt the farmer. Because any man in this world knows that a farmer out here in the country on a hot summer day can not work the water out of his butter to save his soul, I do not care how good a butter maker the housewife may be.

I think I have nothing more to say.

The CHAIRMAN. Thank you very much, Mr. Abbott. Without objection, the committee will stand adjourned until 10 o'clock to-morrow.

(Whereupon, at 11.35 o'clock a. m., the committee adjourned to meet at 10 o'clock a. m. to-morrow, Thursday, June 22, 1922.)



## MINING IN WICHITA GAME RESERVE.

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COMMITTEE ON AGRICULTURE,  
HOUSE OF REPRESENTATIVES,  
*Wednesday, June 21, 1922.*

The committee met at 11.40 o'clock a. m., Hon. Gilbert N. Haugen (chairman) presiding.

The committee then proceeded to the consideration of H. R. 9136, which is here printed in full, as follows:

**"A BILL To authorize the leasing for mining purposes of unallotted lands on the Wichita Game Reserve, Oklahoma.**

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That lands reserved in Oklahoma in what is known as the Wichita Game Reserve may be leased for mining purposes with the approval and under regulations prescribed by the Secretary of Agriculture."*

### **STATEMENT OF L. M. GENSMAN, A REPRESENTATIVE IN THE CONGRESS FROM THE STATE OF OKLAHOMA.**

The CHAIRMAN. Mr. Gensman, I understand that you desire to make some statement with reference to the bill which you have introduced. The committee will be glad to hear you.

Mr. GENSMAN. The bill is H. R. 9136, which provides that lands reserved in Oklahoma in what is known as the Wichita Game Reserve may be leased for mining purposes with the approval of and under regulations prescribed by the Secretary of Agriculture.

This Wichita Game Reserve is a tract of land that was set aside by the Government when the Kiowa and Comanche country was opened. Of course, in the order setting it aside the land was reserved as a game reserve only, but since then a number of men have gone out into the mountains there and located mining claims. Everybody has heard or read about the old Spanish gold mines in the Wichita Mountains. Float or placer gold is found in the creek bottoms there, and it is thought that somewhere in the game reserve there is a lode of gold-bearing rock which will in time be discovered.

There are a number of men who would like to mine that land. Of course, it is prospected, but they would like to get the benefit of their prospecting when they discover gold, if they do. This provision will not in any way interfere with the game or anything else.

Mr. ASWELL. How much land is there in this reserve?

Mr. GENSMAN. I can not tell you the number of acres. It is probably equivalent in size to two or three townships.

The Secretary of Agriculture has addressed a communication to the chairman of this committee, commenting favorably upon the bill. I ask that that be made a part of the record.

The CHAIRMAN. Without objection, the Secretary's letter will be incorporated in the record.

(The letter referred to is here printed in full as follows:)

DEPARTMENT OF AGRICULTURE,  
Washington, January 18, 1921.

Hon. G. N. HAUGEN,  
*House of Representatives.*

MY DEAR MR. HAUGEN: Reference is made to your letter of January 9, transmitting, for recommendation, a copy of H. R. 9136.

I am glad to recommend that favorable action be taken on this bill, which, if enacted, will provide for exploitation of minerals on the Wichita Game Reserve under rules and regulations to be prescribed by this department under a leasing system. The administration of the game preserve will not, in my opinion, be adversely affected by the proposed legislation and an opportunity will be afforded to the public permitting prospecting, development, and utilization of the mineral resources on the preserve.

Very sincerely yours,

HENRY WALLACE, *Secretary.*

(Thereupon, at 11.45 o'clock a. m., the committee adjourned.)

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